CS/SB 306 by **AP, Braynon (CO-INTRODUCERS) Abruzzo**; (Compare to CS/H 0165) Economic Development

140726	A	S		WD	RC, Margolis	Delete L.320 - 345:	04/02 01:15 PM
640428	A	S	L	WD	RC, Ring	Delete L.107 - 116:	04/02 01:15 PM
749442	A	S	L	WD	RC, Sobel	btw L.345 - 346:	04/02 01:15 PM
130470	A	S	L	WD	RC, Sobel	Delete L.419 - 464:	04/02 01:15 PM
123940	A	S	L	RCS	RC, Gardiner, Thrasher,	Delete L.190 - 319:	04/02 01:15 PM
601558	AA	S	L	WD	RC, Margolis	Delete L.463:	04/02 07:04 AM
469876	AA	S	L	WD	RC, Sobel	Delete L.463:	04/02 01:15 PM

CS/CS/SB 1382 by **CA, EE, Latvala**; (Compare to CS/CS/CS/1ST ENG/H 0569) Campaign Finance

454416	A	S			RC, Latvala	Delete L.777 - 783:	03/29 03:04 PM
245104	A	S			RC, Latvala	Delete L.1223 - 1244:	03/29 03:05 PM
718076	A	S			RC, Latvala	Delete L.2216:	03/29 03:06 PM

CS/CS/SB 112 by **CJ, JU, Dean**; (Compare to CS/H 0915) Filing False Documents Against Real or Personal Property

764996	D	S		RCS	RC, Lee	Delete everything after	04/02 01:15 PM

CS/SB 186 by **JU, Diaz de la Portilla**; (Identical to CS/H 0775) Jurisdiction of the Courts

SB 402 by **Joyner**; (Similar to CS/H 0093) Homelessness

885432	A	S		FAV	TR, Joyner	Delete L.224:	03/08 09:27 AM

SB 604 by **Bean**; (Compare to CS/H 0639) Practitioners

CS/CS/SB 658 by **CM, RI, Simpson (CO-INTRODUCERS) Ring, Brandes, Joyner, Hays, Thompson, Richter**; (Similar to CS/H 0623) Wine

SB 832 by **Joyner**; (Similar to CS/H 0841) Powers of Attorney

CS/SB 1106 by **AG, Hays**; (Similar to CS/H 0927) Agritourism

624918	A	S		RCS	RC, Richter	Delete L.50 - 162:	04/02 01:15 PM
973988	AA	S	L	RCS	RC, Richter	Delete L.7:	04/02 01:15 PM

CS/SB 1494 by **JU, Thrasher**; (Identical to CS/CS/H 0935) Florida False Claims Act

298330	A	S			RC, Lee	Delete L.188 - 333:	03/29 04:39 PM
784344	A	S			RC, Lee	Delete L.597:	03/29 04:40 PM

SB 1792 by **JU**; (Compare to CS/H 0827) Medical Negligence Actions

456098	A	S		UNFAV	RC, Smith	Delete L.137 - 171.	04/02 01:09 PM

CS/SB 1030 by **GM, Thrasher (CO-INTRODUCERS) Bradley**; (Similar to CS/1ST ENG/H 0155) Prohibition of Electronic Gambling Devices

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Thrasher, Chair
Senator Smith, Vice Chair

MEETING DATE: Tuesday, April 2, 2013
TIME: 8:00 —11:00 a.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Office Building

MEMBERS: Senator Thrasher, Chair; Senator Smith, Vice Chair; Senators Benacquisto, Diaz de la Portilla, Galvano, Gardiner, Latvala, Lee, Margolis, Montford, Negron, Richter, Ring, Simmons, and Sobel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 306** Appropriations / Braynon (Compare CS/H 165, CS/H 721, CS/S 406, CS/S 922)	Economic Development; Providing that tourist development tax revenues may also be used to pay the debt service on bonds that finance the renovation of a professional sports facility that is publicly owned, or that is on land publicly owned, which is publicly operated or operated by the owner of a professional sports franchise or other lessee; requiring a majority-plus-one vote of the membership of the board of county commissioners to levy a tax for renovation of a sports franchise facility after approval by a majority of the electors voting in a referendum to approve the proposal; repealing provisions relating to an income tax deduction for international banking facilities, etc. CM 02/05/2013 Favorable AFT 03/06/2013 Fav/CS AP 03/14/2013 Fav/CS RC 04/02/2013 Fav/CS	Fav/CS Yeas 15 Nays 0
2	**CS/CS/SB 1382** Community Affairs / Ethics and Elections / Latvala (Compare CS/CS/CS/H 569)	Campaign Finance; Repealing provisions relating to the certification and political activities of committees of continuous existence; requiring certain individuals seeking a publicly-elected position on a political party executive committee to file a report with the supervisor of elections before the primary election; requiring the Division of Elections to submit a proposal for a mandatory statewide electronic filing system for certain state and local candidates to the Legislature by a specified date, etc. EE 03/11/2013 Fav/CS CA 03/20/2013 Fav/CS RC 04/02/2013 Not Considered	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**CS/CS/SB 112** Criminal Justice / Judiciary / Dean (Compare CS/H 915)	Filing False Documents Against Real or Personal Property; Prohibiting a person from filing or causing to be filed, with intent to defraud another, a document relating to the ownership, transfer, or encumbrance of or claim against real or personal property, or any interest in real or personal property, which the person knows contains a material misstatement or misrepresentations; establishing reclassified penalties that increase criminal penalties for persons who commit the specified offenses a second or more times, who are convicted offenders who commit unlawful acts while incarcerated in a jail or participating in community correctional programs, and when the victim of the offense is a public officer or employee under certain circumstances, etc. JU 03/06/2013 Fav/CS CJ 03/18/2013 Fav/CS RC 04/02/2013 Fav/CS	Fav/CS Yeas 15 Nays 0
4	**CS/SB 186** Judiciary / Diaz de la Portilla (Identical CS/H 775)	Jurisdiction of the Courts; Providing that a person submits to the jurisdiction of the courts of this state by entering into a contract that specifies that the law of this state governs the contract and that the person agrees to submit to the jurisdiction of the courts of this state; clarifying the circumstances under which an arbitration is international; limiting the application of certain provisions to instances in which an arbitral tribunal orders a party to preserve evidence that may be relevant and material to the resolution of a dispute, etc. CM 02/05/2013 Favorable JU 03/18/2013 Fav/CS RC 04/02/2013 Favorable	Favorable Yeas 15 Nays 0
5	**SB 402** Joyner (Similar CS/H 93)	Homelessness; Requiring the motor vehicle registration form and registration renewal form, the driver license application form, and the driver license application form for renewal issuance or renewal extension to include an option to make a voluntary contribution to aid the homeless; providing for such contributions to be deposited into the Grants and Donations Trust Fund of the Department of Children and Families and used by the State Office on Homelessness for certain purposes; establishing a homelessness prevention grant program, etc. CF 02/19/2013 Favorable TR 03/07/2013 Fav/1 Amendment RC 04/02/2013 Not Considered	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	**SB 604** Bean (Compare CS/H 639)	Practitioners; Reorganizing provisions relating to license fees for certain practitioners; providing that the Department of Financial Services shall defend certain claims, suits, actions, or proceedings for injunctive, affirmative, or declaratory relief involving emergency interventions on behalf of impaired practitioners; allowing impaired practitioner consultants access to certain confidential information in the prescription drug monitoring program's database when necessary to evaluate or monitor a practitioner as part of a treatment program for impaired practitioners, etc. HP 03/07/2013 Favorable JU 03/18/2013 Favorable RC 04/02/2013 Not Considered	Not Considered
7	**CS/CS/SB 658** Commerce and Tourism / Regulated Industries / Simpson (Similar CS/H 623)	Wine; Providing an exception to the maximum allowable capacity for individual containers of wine sold in this state; providing that, except as provided in s. 564.09, F.S., all wine containers sold or offered for sale at retail for consumption off the premises shall be in the original container, etc. RI 03/07/2013 Fav/CS CM 03/18/2013 Fav/CS RC 04/02/2013 Not Considered	Not Considered
8	**SB 832** Joyner (Similar CS/H 841)	Powers of Attorney; Authorizing a notary public to sign the principal's name to the power of attorney under certain circumstances; providing that an original power of attorney, rather than a photocopy or electronic copy, may be required under certain circumstances; providing that an original power of attorney may be presented for recording in the official records for a fee; adding exceptions to a provision that prohibits an agent who has accepted appointment from delegating authority to a third person, etc. JU 03/06/2013 Favorable GO 03/21/2013 Favorable RC 04/02/2013 Not Considered	Not Considered
9	**CS/SB 1106** Agriculture / Hays (Similar CS/H 927)	Agritourism; Restricting a local government's ability to regulate agritourism activity on agricultural land; limiting the liability of an agritourism professional, his or her employer or employee, or the owner of the underlying land on which the agritourism activity occurs if certain conditions are met; requiring that signs and contracts notify participants of certain inherent risks and the assumption of that risk, etc. AG 03/11/2013 Fav/CS CA 03/20/2013 Favorable RC 04/02/2013 Fav/CS	Fav/CS Yeas 15 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	**CS/SB 1494** Judiciary / Thrasher (Identical CS/H 935, Compare H 937, H 1297, Link CS/S 1496)	Florida False Claims Act; Revising conditions under which a person is liable for a specified civil penalty; authorizing the Department of Legal Affairs to issue subpoenas for specified purposes before the institution of civil proceedings; authorizing the department to stipulate to protective orders of submitted documents and information; providing for estoppel as to certain matters following a final judgment or decree rendered in favor of the state or the Federal Government in certain criminal proceedings, etc. JU 03/18/2013 Fav/CS RC 04/02/2013 Not Considered	Not Considered
11	**SB 1792** Judiciary (Compare CS/H 827, S 886, S 1308, S 1310)	Medical Negligence Actions; Authorizing a health care practitioner or provider who reasonably expects to be deposed, to be called as a witness, or to receive discovery requests to consult with an attorney on certain matters; authorizing the disclosure of patient information in connection with litigation under certain circumstances; authorizing a medical liability insurer to recommend an attorney to a health care practitioner or provider under certain circumstances; providing that a prospective defendant may conduct an ex parte interview with a claimant's treating health care provider as a tool of informal discovery, etc. RC 04/02/2013 Favorable	Favorable Yeas 12 Nays 3
12	**CS/SB 1030** Gaming / Thrasher (Similar CS/H 155, Compare H 257, S 502)	Prohibition of Electronic Gambling Devices; Revising the definition of the term "drawing by chance" to include the term "raffle" within the meaning of the term and exclude the term "game promotions"; revising conditions for exceptions to prohibitions on lotteries; prohibiting the use of certain devices operated by drawing entrants; providing penalties; prohibiting specified nonprofit organizations from operating a game promotion; providing conditions for exceptions to prohibitions on lotteries; providing a rebuttable presumption that a device, system, or network is a prohibited slot machine, etc. GM 03/18/2013 Fav/CS RC 04/02/2013 Favorable	Favorable Yeas 15 Nays 0
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 306

INTRODUCER: Rules Committee; Committee on Appropriations (Recommended by Appropriations Subcommittee on Finance and Tax) and Senators Braynon and Abruzzo

SUBJECT: Economic Development

DATE: April 3, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Hrdlicka	CM	**Favorable**
2.	Cote	Diez-Arguelles	AFT	**Fav/CS**
3.	Cote	Hansen	AP	**Fav/CS**
4.	Smith	Phelps	RC	**Fav/CS**
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/CS/SB 306 creates the Sports Development program. The program allows applicants to apply to the Department of Economic Opportunity (DEO) for funding to assist in the construction, reconstruction, renovation, or improvement of a sports facility. An applicant may be a local government or an entity that operates or owns a facility located on property owned by a local government.

Applicants are eligible to receive an amount equal to the new incremental state sales tax generated by the construction, reconstruction, renovation, or improvement to the facility, up to certain per-applicant annual caps. The bill caps total annual program funding at $15 million. After the earlier of four years or the completion of a construction project, the amount awarded to each applicant is adjusted each year to reflect the actual new incremental state sales tax generated by the facility during that year.

Applicants are required to apply during a defined application period for evaluation by DEO. DEO will rank applicants and submit recommendations to the Legislature each year for approval. Upon legislative approval, DEO will finalize an applicant's certification and notify the

Department of Revenue (DOR) of the appropriate annual award amount. DEO also notifies DOR each year if an applicant's annual award is adjusted or if the Legislature has chosen to decertify an applicant and discontinue funds. Funds may be discontinued in certain situations such as if a team relocates or if DEO finds that the applicant made any false or fraudulent representations. The bill also provides for situations where a beneficiary will be required to repay the state for funds distributed.

The bill allows for an early application period beginning May 1, 2013, for applicants applying for state funding in order to attract a "signature event."

The bill requires annual reporting to DEO, and verification of program performance every five years.

The bill allows a county that levies the charter county convention development tax under s. 212.0305(4)(b), F.S., to levy the additional professional sports franchise facility tourist development tax under s. 125.0104(3)(n), F.S. Also, the bill expands the allowable uses of the additional professional sports franchise facility tourist development tax.

The bill repeals the corporate income tax deduction for "international banking facilities."

If Miami-Dade County levies the additional professional sports franchise facility tourist development tax, the REC estimates it will generate approximately $11.0 million annually to be deposited in the county's tourist development trust fund. The REC estimates that repealing the corporate income tax deduction for international banking facilities will increase revenues deposited into the General Revenue Fund by approximately $13.5 million annually. The REC has not evaluated the impact of the Sports Development program.

The bill is effective upon becoming law. The sections of the bill relating to international banking facilities apply to taxable years beginning on or after January 1, 2013.

The bill substantially amends ss. 125.0104, 212.20, 218.64, and 220.153, F.S.

The bill repeals ss. 220.62 and 220.63, F.S.

The bill creates ss. 288.11625 and 288.116255, F.S.

II. Present Situation:

Professional Sports in Florida

Florida currently has 9 major professional sports teams. The oldest major professional sports team in the state is the Miami Dolphins football franchise of the National Football League (NFL). The Dolphins franchise began in 1966 as an expansion team as part of the now-defunct American Football League. The newest major professional sports team in the state is the Tampa Bay Rays baseball franchise of Major League Baseball (MLB). The Rays franchise began in 1998. Below is a summary table of information on major professional sports franchises in Florida:

Franchise	Sport	League	Year Founded	Facility	Facility Opened	County
Miami Dolphins	Football	NFL	1966	Sun Life Stadium	1987	Miami-Dade
Tampa Bay Buccaneers	Football	NFL	1976	Raymond James Stadium	1998	Hillsborough
Miami Heat	Basketball	NBA	1988	American Airlines Arena	1999	Miami-Dade
Orlando Magic	Basketball	NBA	1989	Amway Center	2010	Orange
Tampa Bay Lightning	Hockey	NHL	1992	Tampa Bay Times Forum	1996	Hillsborough
Florida Panthers	Hockey	NHL	1993	BB&T Center	1998	Broward
Miami Marlins	Baseball	MLB	1993	Marlins Park	2012	Miami-Dade
Jacksonville Jaguars	Football	NFL	1995	EverBank Field	1995	Duval
Tampa Bay Rays	Baseball	MLB	1998	Tropicana Field	1990, occupied by Rays since 1998	Pinellas

In addition to the nine major professional sports teams, Florida is also home to 33 Minor League franchises in various sports and three Arena Football League teams. MLB's Spring Training Grapefruit League is also based in Florida, with 15 teams claiming the state as their second home for preseason training and exhibition games.

State Incentives for Professional Sports Teams

Section 288.1162, F.S., provides the procedure by which professional sports franchises in Florida may be certified to receive state funding for the purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise. Local governments, non-profit, and for-profit entities may apply to the program.

The Department of Economic Opportunity (DEO) is responsible for screening and certifying applicants for state funding. Applicants qualifying as new professional sports franchises must be a professional sports franchise that was not based in Florida prior to April 1, 1987. Applicants qualifying as retained professional sports franchises must have had a league-authorized location in the state on or before December 31, 1976, and be continuously located at the location. The number of certified professional sports franchises, both new and retained, is limited to eight total franchises.

For both new and retained franchises, DEO must confirm and verify that:

- A local government is responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property where the facility is located;
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for at least 10 years, or for 20 years in the case of a retained franchise;
- The applicant has a verified copy of the approval by the governing body of the NFL, MLB, National Hockey League, or National Basketball League authorizing the location of a new franchise in the state after April 1, 1987, for new professional sports franchises, or verified evidence of a league-authorized location in the state on or before December 31, 1976, for a retained professional sports franchise;
- The applicant has projections demonstrating a paid annual attendance of over 300,000 annually;
- The applicant has an independent analysis demonstrating that the amount of sales taxes generated by the use or operation of the franchise's facility will generate $2 million annually;
- The city where the franchise's facility is located, or the county if the facility is in an unincorporated area, has certified by resolution after a public hearing that the applicant franchise serves a public purpose; and
- The applicant has demonstrated that it has provided or is capable of providing financial or other commitments of more than one-half of the costs incurred or related to the improvement or development of the franchise's facility.

Any applicant who meets the above mentioned criteria as verified by DEO is eligible to receive monthly payments from the state of $166,667 for not more than 30 years,[1] for an annual payment totaling $2,000,004. The Department of Revenue disburses the payments.

Further, payments may only be used for the public purposes of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise; reimbursing associated costs for such activities; paying or pledging payments of debt service on bonds issued for such activities; funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds. The state may only pursue recovery of funds if the Auditor General finds that the distributions were not expended as required by statute.

No facility may be certified more than once, and no sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by DEO before any funds were disbursed under s. 212.20(6)(d), F.S.

As of January 8, 2013, there were eight certified new or retained professional sports franchise facilities in Florida. The facilities and the payment distribution for each are listed below:[2]

Facility name	Certified entity	Franchise	First Payment	Final Payment	Total payments to date

[1] Section 212.20(6)(d)6.b., F.S.
[2] DEO, *Professional Sports Franchises*, (January 8, 2013), (on file with the Commerce and Tourism Committee).

Sun Life Stadium	Dolphins Stadium/ South Florida Stadium	Florida (Miami) Marlins[3]	06/94	06/2023	$39,166,745
Everbank Field	City of Jacksonville	Jacksonville Jaguars	06/94	05/2024	$37,333,408
Tropicana Field	City of St. Petersburg	Tampa Bay Rays	06/95	06/2025	$35,166,737
Tampa Bay Times Forum	Tampa Sports Authority	Tampa Bay Lightning	09/95	08/2025	$34,833,403
BB&T Center	Broward County	Florida Panthers	08/96	07/2026	$33,000,066
Raymond James Stadium	Hillsborough County	Tampa Bay Buccaneers	01/97	12/2026	$32,166,731
American Airlines Arena	BPL, LTD	Miami Heat	03/98	03/2028	$29,666,726
Amway Center	City of Orlando	Orlando Magic	02/08	01/2038	$10,000,020

Tourist Development Tax

Section 125.0104, F.S., authorizes the levy of five separate local option taxes on rental charges subject to the transient rentals tax under s. 212.03, F.S., to be used in various ways to promote tourism within the county. The authorized uses of each local option tax vary according to the particular levy.[4]

- The tourist development tax may be levied at the rate of 1 or 2 percent.[5] Currently, 62 counties levy this tax at 2 percent; all 67 counties are eligible to levy this tax.[6] Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.
- An additional tourist development tax of 1 percent may be levied.[7] Currently 45 counties levy this tax and only 57 counties are currently eligible to levy this tax. Revenue from this tax may be bonded to finance certain facilities and projects, but may not be used for certain debt service or refinancing unless approved by an extraordinary vote of the governing board. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.
- A professional sports franchise facility tax may be levied up to an additional 1 percent.[8] Currently 36 counties levy this additional tax and all 67 counties are eligible to levy this

[3] The Marlins franchise relocated from Sun Life Stadium to Marlins Park for the 2012 baseball season.
[4] Florida Revenue Estimating Conference, "2012 Florida Tax Handbook."
[5] Section 125.0104(3)(c), F.S.
[6] Information related to the number of counties levying the taxes is from the Office of Economic and Demographic Research, "2013 Local Option Tourist/Food and Beverage/Tax Rates in Florida's Counties," http://edr.state.fl.us/Content/local-government/data/county-municipal/2013LOTTrates.pdf (last visited January 24, 2013).
[7] Section 125.0104(3)(d), F.S.
[8] Section 125.0104(3)(l), F.S.

tax. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and convention centers, and to promote and advertise tourism.

- A high tourism impact tax may be levied at an additional 1 percent.[9] Five counties are eligible to levy this tax (Broward, Monroe, Orange, Osceola, and Walton). Of these five counties, Monroe, Orange, and Osceola levy this additional tax. Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds.
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.[10] Out of 65 counties that levy a professional sports facility tax, 20 levy an additional professional sports franchise facility tax. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and to promote and advertise tourism. Miami-Dade and Volusia counties may not levy the additional 1 percent professional sports franchise facility tax.[11] [12]

"Local option tourist taxes are significant revenue sources to Florida's county governments and represent important funding mechanisms for a variety of tourism-related expenditures such as beach and shoreline maintenance, construction of convention centers and professional sports franchise facilities, and tourism promotion."[13] Generally, the revenues from these levies may be used for capital construction, maintenance, and promotion of tourist-related facilities, tourism promotion, and beach and shoreline maintenance. Tourist-related facilities include convention centers, sports stadiums and arenas, coliseums, auditoriums, aquariums, and museums that are publically owned and operated within the area that the tax is levied. Tax revenues may also be used to promote zoos.

The local taxes on rental charges are required to be remitted to the Department of Revenue, unless a county has adopted an ordinance providing for local collection and administration of the tax.[14]

In counties that have plans for tourist development that include the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, the ordinance levying the tourist development tax automatically expires upon the later of two circumstances:

---

[9] Section 125.0104(3)(m), F.S.
[10] Section 125.0104(3)(n), F.S.
[11] Section 212.0305(4)(b), F.S.
[12] Section 125.0104(3)(b), F.S.
[13] Florida Legislative Committee on Intergovernmental Relations, Issue Brief: Utilization of Local Option Tourist Taxes by Florida Counties in Fiscal Year 2009-10 (December 2009), available at http://edr.state.fl.us/Content/local-government/reports/localopttourist09.pdf (last visited on January 24, 2013).
[14] Also known as "self-administering."

- The retirement of all bonds issued by the county for financing the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization; or
- The expiration of any agreement by the county for the operation or maintenance, or both, of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum.

Convention Development Taxes

Section 212.0305, F.S., authorizes Duval, Miami-Dade and Volusia counties to levy a convention development tax on transient rental transactions. Three of the five available levies are applicable to only separate taxing districts within Volusia County. The levies may be authorized by adoption of an ordinance by the county's governing body. Revenues may generally be used for capital construction of convention centers and other tourist-related facilities as well as tourism promotion.[15]

Only Duval County meets the requirements to levy the 2 percent convention development tax on the total charged consideration for transient rentals under s. 212.0305(4)(a), F.S., which applies to counties operating under a government consolidated with one or more municipalities in the county. Proceeds from the tax may be used for the following purposes:

- To promote and advertise tourism (only for municipalities of more than 10,000 population);
- To extend, enlarge, and improve existing publicly owned convention centers in the county;
- To construct a multipurpose convention/coliseum/exhibition center or the maximum components thereof as funds permit in the county; and/or
- To acquire, construct, extend, enlarge, remodel, repair, improve, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, or auditoriums.

Miami-Dade County is the only county meeting the requirements of s. 212.0305(4)(b), F.S., authorizing a charter county as defined in s.125.011(1), F.S., to levy the charter county convention development tax. The tax is a 3 percent tax on the total consideration charged for transient rental transactions. The county must notify each municipality of projects to be developed, and each municipality must designate an authority with the power to approve the concept, location, and design of the facilities or improvements to be developed. The governing board of any municipality within Miami-Dade County that levies the Municipal Resort Tax[16] may adopt a resolution prohibiting the imposition of the convention development tax within the municipality's jurisdiction. Should a municipality adopt such a resolution, no convention development taxes collected by the county may be expended within the municipality. Proceeds from the tax may be used only in the following manner:

[15] Office of Economic and Demographic Research, *2012 Local Government Financial Information Handbook*, (October 2012), available at: http://edr.state.fl.us/Content/local-government/reports/lgfih12.pdf, (last visited on January 28, 2013).
[16] Chapter 67-930, L.O.F.

- Two-thirds of the proceeds shall be used to extend, enlarge, and improve the largest existing publicly owned convention center in the county;
- One-third of the proceeds shall be used to construct a new multipurpose convention/coliseum/exhibition center/stadium or the maximum components thereof, as funds permit in the most populous municipality in the county;
- After completion of any project on the largest existing publicly owned convention center in the county, tax revenues and accrued interest may be used to acquire, construct, extend, enlarge, remodel, repair, improve, plan for, operate, manage, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, auditoriums, or golf courses, and may be used to acquire and construct an intercity light rail system;[17] and
- After the completion of any convention project in the most populous municipality in the county, tax revenues and accrued interest may be used to operate the authority designated by the municipality with the powers to approve the concept, location, and design of the convention facilities, or for maintenance on one or more convention facilities, golf courses, related buildings or parking facilities within the most populous municipality in the county.

Volusia County is the only county authorized to levy three separate special district convention development taxes. The county levies the special district convention development tax, the special convention development tax, and the subcounty convention district tax, as authorized by ss. 212.0305(4)(c)-(e) and 212.03055, F.S., on the total consideration charged for transient rentals. The combined effect of the three separate taxing districts is a countywide tax of 3 percent.[18] For each levy, the county may designate or appoint an authority to administer or disburse the tax proceeds. Proceeds from the tax, including any accrued interest is to be used in the following manner:

- To promote and advertise tourism; and
- To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus.

The local taxes on transient rental charges are required to be remitted to the Department of Revenue, unless a county has adopted an ordinance providing for local collection and administration of the tax.

International Banking Facility Corporate Income Tax Deduction

Section 220.63(5), F.S., provides a corporate income tax deduction for income from international banking activities. The qualifying international banking facility income generally includes income generated from loans to foreign persons, deposits with foreign banks or other international banking facilities, and foreign exchange trading or hedging transactions. Florida's deduction was created as an incentive for U.S. banks to locate their international banking offices within Florida.

[17] The light rail system must be used to transport persons to and from the largest publicly owned convention center to hotels north of the convention center, and to and from the downtown area of the most populous municipality within the county as determined by the county.
[18] *Supra* note 13 at pages 125 and 240.

At the time the deduction was adopted, federal interstate banking restrictions ensured that international banking facilities that were subject to Florida's corporate income tax had physical facilities in Florida. In 1994, federal interstate banking restrictions were largely repealed due to changes in federal law. Because of the change in interstate banking restrictions, banks can currently take the deduction even if their interstate banking facility is located in another state.

As of December 31, 2012, there were 20 foreign banks and 9 domestic banks with international banking facility assets within Florida.[19]

III. Effect of Proposed Changes:

Section 1 amends s. 125.0104, F.S., to allow counties to use the proceeds of the additional 1 percent professional sports franchise facility tourist development tax for the purposes of paying debt service on bonds issued to finance the renovation of a professional sports franchise facility. The bill provides that funds generated by the tax may also be used to pay planning and design costs incurred prior to bond issuance, and to pay for operation and maintenance costs of the facility. This is an expansion of the eligible uses of the already-existing additional professional sports franchise facility tourist development tax. In order to be eligible for the expanded uses, a facility must:

- Have a total renovation cost of over $300 million, including permitting, architectural, and engineering fees, of which a majority must be paid for by the ownership of the professional sports franchise or by other private sources, exclusive of in-kind contributions; and
- Be publicly owned, or be located on land that is publicly owned and be publicly operated or operated by the professional sports franchise or another lessee with expertise or financial capability to operate the facility.

This section also allows charter counties that levy the charter county convention development tax (Miami-Dade County) to levy the additional 1 percent professional sports franchise facility tourist development tax. The county must receive referendum approval in order to levy and use the additional 1 percent sports franchise facility tourist development tax. Current law prohibits Miami-Dade County from levying the additional tax.

Section 2 amends s. 212.20, F.S., to authorize the Department of Revenue (DOR) to distribute monthly payments equal to one-twelfth of the annual distribution amount certified by the Department of Economic Opportunity (DEO) under the Sports Development program created by s. 288.11625, F.S. DOR must begin distributions within 45 days from notification by DEO. The distribution is subject to adjustments upon annual notification from DEO. DOR may not distribute more than $15 million annually to all applicants certified by DEO under the Sports Development program.

Section 3 amends s. 220.153, F.S., to delete a cross-reference to "international banking facility."

[19] See email from the Atlanta office of the Federal Reserve Bank dated March 15, 2013 (on file with the Appropriations Subcommittee on Finance and Tax).

Section 4 amends s. 220.62(3) and (5) to repeal the definition of the terms "international banking facility" and "foreign person."

Section 5 amends s. 220.63, F.S., to repeal the corporate tax deduction for international banking facilities.

Section 6 provides that Sections 3, 4, and 5, relating to international banking facilities, apply to taxable years beginning on or after January 1, 2013.

Section 7 creates s. 288.11625, F.S., to create the Sports Development program (program).

DEO is the state agency responsible for screening, evaluating, recommending, and certifying applicants. Local governments, non-profits, or for-profit entities, including professional sports franchises and associations (applicants) are eligible to apply to the program, provided the facility for which the applicant is applying sits on land owned by a unit of local government. An applicant may apply for annual distributions to help pay for constructing, reconstructing, renovating, or improving a facility. A "facility" may not include hotels or retail operations, unless physically connected to the facility.

The annual distribution amounts are based on the new incremental state sales taxes generated as a result of the construction, reconstruction, renovation, or improvement of a facility over the amount generated at the time of initial application, i.e. prior to the capital project, up to a certain annual limitations, depending on the type of beneficiary. A "beneficiary" may be a professional sports franchise or national sports association. Payments may continue for up to 30 years or the duration of an agreement for use of a facility, provided such an agreement is for at least 15 years. Total annual payments are capped at $15 million.

Application and Review Process

The bill requires applicants to submit applications to DEO between June 1st and November 1st. DEO must review applications for defined criteria within 60 days of receiving a complete application. Applicants must submit, and DEO must verify:

- The applicant owns or occupies the facility or a local government holds title to the property;
- The applicant is planning a capital project for construction, reconstruction, renovation, or improvement of a facility for use by a beneficiary franchise or association;
- The capital project has not commenced at the time of the application;
- The applicant has not previously defaulted or failed to meet any statutory requirements of a previous state-administered program for sports facility funding;
- If the applicant is a unit of local government in which the facility will be located, the unit of local government has an exclusive intent agreement to negotiate in Florida with a beneficiary franchise or association;
- The applicant or beneficiary has demonstrated a commitment to hire Florida residents and firms or to use locally-available building materials;
- The local government supports the application through passage of a public resolution. If a unit of local government is required to hold a referendum to levy the additional professional

sports tourist development tax for the purposes of bonding, such a referendum must affirmatively pass; and

- There is an agreement, either between and local government and a beneficiary franchise or association for use of the facility or between the beneficiary and DEO, depending on the applicant. The agreement must include certain specific provisions:
  - The beneficiary must reimburse the state for state funds distributed if the beneficiary franchise or association relocates prior to the expiration of the agreement.
  - The beneficiary must pay for Florida signage or advertising within the facility as close to the field of play as possible, at a cost comparable to similar advertising.
  - The advertising must be approved by VISIT Florida. The owner of a beneficiary must reimburse the state for state funds expended if the owner sells the beneficiary prior to the expiration of the agreement. Payments must be paid in lump sum within 90 days of sale.

By February 1st of each year, DEO must provide evaluations of recommended applications received during the application cycle, in ranked order, to the Legislature for final consideration and approval. DEO must rank applications using the following criteria to evaluate the applicant's ability to positively impact the state:

- The applicant's proposed use of state funds;
- The length of time a beneficiary franchise or association has agreed to use the facility;
- The percentage of total project funds supplied by the applicant and the beneficiary and the amount of private or in-kind contributions;
- The number of "signature events" the facility is likely to attract. "Signature events" include events such as Super Bowls, All-Star games, College Bowl Games, International sporting events, and other such events with the potential to attract economic activity to the state that would not have otherwise have occurred;
- The anticipated increase in average annual ticket sales and attendance due to the project;
- The potential of the facility to attract out-of-state visitors;
- The length of time a beneficiary has been in the state or partnered with a local government;
- The facility's multiuse capabilities;
- The projected use of Florida residents, firms, and building materials; and
- The amount of positive advertising generated by the facility.

To receive distribution payments, a new applicant must be approved through legislative action. Following legislative approval, DEO must certify applicants upon receiving all necessary information. The applicant must execute a contract with DEO that:

- Specifies the terms of the state's investment;
- States the criteria that the certified applicant must meet in order to remain certified;
- States that the certified applicant is subject to decertification as recommended by DEO and approved by the Legislature, or reduction of funding, if the certified applicant fails to comply the with contract's terms;
- Specifies information that the certified applicant must report to DEO; and
- Includes any other provisions deemed prudent by DEO.

Upon certifying an applicant, DEO must notify DOR to begin monthly distribution payments. Payment amounts continue until DEO otherwise notifies DOR to adjust or discontinue the payment amount.

Applicants certified under the program and receiving monthly distribution payments do not require legislative action each year to continue receiving payments. DEO will present a ranked list of applicants to the Legislature each year on February 1st, regardless of whether the total program cap has been reached, however DOR is prohibited from distributing over $15 million in annual distribution payments. DEO may not recommend more than one distribution for any applicant, facility, or beneficiary at any single point in time.

Payment and Distribution Adjustment

A certified applicant is only eligible to receive payments equal to the new incremental state sales tax generated by the facility over a 12-month period, up to a certain amount. The new incremental amount is the amount over the "baseline amount," which is the amount of state sales tax generated by the facility during the 12-month period prior to the beginning of an application period. The "baseline amount" must be determined by a study paid for by the applicant and verified by an independent certified public accountant.

During the initial application period, DEO must determine the type of team or association the capital project will benefit. The classification determines the maximum annual award amount the applicant may receive. The three classifications and their maximum award amounts are:

- "*Major professional sports franchise*," which includes franchises playing in the NFL, MLB, NBA, MLS, or NHL. Applicants whose facility will benefit these franchises may receive up to 80 percent of the new incremental sales tax generated by the facility or $3 million annually, whichever is less, for a maximum potential value of $90 million over 30 years.
- "*Professional sports or association*," which includes any other professional sports franchises not listed above or a nationally-recognized professional sports association. Applicants whose facility will benefit these franchises or associations may receive up to 100 percent of the new incremental sales tax generated by the facility or $2 million annually, whichever is less, for a maximum potential value of $60 million over 30 years.
- "*Off-season sports training franchise*," which includes major professional sports franchises that use a local government-owned facility during the months from February through April. This category includes MLB franchises using facilities for spring training. Applicants whose facility will benefit these franchises may receive up to 100 percent of the new incremental sales tax generated by the facility or $666,660 annually, whichever is less, for a maximum potential value of $20 million over 30 years.

During the application process, DEO must estimate the amount of new incremental state sales tax the facility will generate as a result of the capital project based on information submitted by the applicant. The methodology used to estimate this amount must be developed in consultation with the Office of Economic and Demographic Research and DOR. Certified applicants will receive this amount until at least 1 year following completion of the capital project or 4 years, whichever occurs first.

Each year thereafter the applicant must submit an analysis to DEO, verified by an independent certified public accountant that certifies the actual amount of state sales taxes generated by the facility over the previous 12 month period. The applicant has 60 days from the end of the previous 12 month period to submit the certification to DEO. DEO will compare the actual

amount submitted by the applicant to the "baseline amount," the difference between the two amounts is the actual new incremental increase in state sales taxes generated. DEO will determine if this amount is higher or lower than the amount estimated at the time of application, and will certify to DOR an amount to increase or decrease the applicant's total annual distributions. Due to a potential delay in time between DEO notifying DOR and DOR adjusting monthly payments, DOR is directed to compensate for the delay by further adjusting subsequent monthly payments to account for the amount that should have been adjusted during the first months of the new 12 month period. Each year DEO will notify DOR to adjust payments either upward or downward, depending on the actual amount of new incremental state sales tax generated by the facility compared to the amount generated the prior year.

The bill prohibits DEO from certifying any new distributions for new applicants or certifying to DOR any upward payment adjustments that would cause total payments to exceed $15 million.

Discontinuation of Payments

The bill requires an applicant's distributions to be discontinued by DOR upon notification from DEO that:

- An applicant's beneficiary franchise or association has broken the terms of its agreement and relocated from the facility;
- The applicant has been decertified by the Legislature;
- DEO determined that an applicant has submitted false, misleading, deceptive, or otherwise untrue information; or
- An applicant requested to halt future distribution payments.

Reports and Audits

Each certified applicant receiving distribution payments must submit an annual report to DEO by November 1st. This report will include any information required by DEO. DEO is directed to summarize the information received and submit a report to the Legislature on February 1st.

Every 5 years following the first month an applicant receives a distribution payment, DEO must verify the applicant is meeting all program requirements. If the applicant is not meeting program requirements, DEO must notify the Governor and Legislature of any requirements not being met and any recommendations for future action, including reducing or halting payments. The report and recommendations must be included in the report to the Legislature on February 1st.

The Auditor General may conduct audits to ensure that distributions are expended as required. DOR may seek recovery of funds if it is found the applicant is found to be out of compliance with the expenditure requirements of the program.

Early Application Period for Signature Events

The bill permits an early application period beginning May 1, 2013, if an applicant intends to apply for a signature event prior to the 2014 Regular Session for which state funds to renovate a major professional sports facility are requested. The application approval and evaluation requirements discussed above apply in the early application period, but the legislative Budget

Commission (LBC) is authorized to approve applications. State funds may not be distributed until DEO notifies DOR that the LBC has approved and DEO has certified the applicant. Any early application will be subject to individual award category limits, and individual awards will count toward the $15 million annual distribution cap. Applicants certified under the early application process will be subject to all other program requirements.

Section 8 creates s. 288.116255, F.S. The bill requires the Sports Development program to be evaluated as part of the Economic Development Program Evaluation every 3 years beginning in 2015. Passage of this section is contingent upon enactment of the Economic Development Program Evaluation set forth in SB 406 or similar legislation.

Section 9 allows the executive directors of DEO and DOR to adopt emergency rules to implement the requirements of the bill. The bill allows such emergency rules to remain in effect for 6 months after the date adopted, and such rules may be renewed during the pendency of procedures to adopt permanent rules for the Sports Development program.

Section 10 provides that the bill's effective date is upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has not evaluated the impact of the provisions of the bill relating to the Sports Development program.

The bill provides for a maximum cap of $15 million for all certified applicants under the Sports Development program.

The bill allows a "major professional sports franchise" to receive up to 80 percent of the new incremental sales tax generated by the facility or $3 million annually, whichever is less, for a maximum potential value of $90 million over 30 years.

The bill allows a "professional sports or association" to receive up to 100 percent of the new incremental sales tax generated by the facility or $2 million annually, whichever is less, for a maximum potential value of $60 million over 30 years.

The bill allows an "off-season sports training franchise" to receive up to 100 percent of the new incremental sales tax generated by the facility or $666,660 annually, whichever is less, for a maximum potential value of $20 million over 30 years.

The bill allows a county that currently levies the charter county convention development tax (Miami-Dade County) to also levy an additional 1 percent professional sports franchise facility tourist development tax. For the additional levy, the REC adopted a positive, indeterminate impact since it is dependent on passage of a local referendum. If the tax was levied by the local government, it would generate approximately $11.0 million annually.

The REC estimates that repealing the corporate income tax deduction for international banking facilities will increase revenues deposited into the General Revenue Fund by $13.5 million annually.

B. Private Sector Impact:

The bill would allow for the increase of taxes imposed on transient rentals on individuals staying at such establishments in the county by 1 percent.

C. Government Sector Impact:

The impact of the CS on the resource demands of the Department of Economic Opportunity and the Department of Revenue are unknown at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill allows the Department of Economic Opportunity to adopt rules relating to administering the Sports Development program.

The bill allows the Department of Revenue to adopt rules relating to administering the distribution of state funds.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Rules on April 2, 2013:
The CS does the following:

- Removes the new category of "professional sports franchise renovation facility."
- Removes the $250,000 monthly distribution for "professional sports franchise renovation facilities" certified by DEO.
- Creates the Sports Development program.
- Creates the procedures by which DOR must administer the monthly distribution to applicants certified under the Sports Development program.
- Requires the Sports Development program to be evaluated under the Economic Development Programs Evaluation, pending passage of SB 406 or similar legislation.
- Allows DEO and DOR to adopt emergency rules.

CS by Appropriations on March 14, 2013:
The CS does the following:

- Requires referendum approval to levy and use the additional 1% sports facilities tourist development tax for the renovation of a professional sports facility.
- Increases the required cost of renovation of a professional sports facility from more than $250 million to more than $300 million.
- Repeals the corporate income tax deduction for "international banking facilities."
- Makes minor clarifying changes.
- Provides that Sections 4, 5, and 6, relating to international banking facilities, apply to taxable years beginning on or after January 1, 2013.

B. Amendments:

None.

140726

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Rules (Margolis) recommended the following:

Senate Amendment (with title amendment)

Delete lines 320 - 345
and insert:
Section 4. Subsections (3) and (5) of section 220.63, Florida Statutes, are amended to read:
220.63 Franchise tax imposed on banks and savings associations.—
(3) For purposes of this part, the franchise tax base shall be equal to:
(a) Adjusted federal income, as defined in s. 220.13, apportioned to this state, plus;
(b) Nonbusiness income allocated to this state pursuant to

140726

14 s. 220.16, less;
15 (c) The deduction allowed in subsection (5); and
16 (d) Less $50,000.
17 (5) There shall be allowed as a deduction from adjusted
18 federal income apportioned to this state, to the extent not
19 deductible in determining federal taxable income or subtracted
20 pursuant to s. 220.13(1)(b)2., the eligible net income of an
21 international banking facility determined as follows:
22 (a) The "eligible net income of an international banking
23 facility" is the amount remaining after subtracting from the
24 eligible gross income the applicable expenses.
25 (b) The "eligible gross income" is the gross income derived
26 in this state by an international banking facility from:
27 1. Making, arranging for, placing, or servicing loans to
28 foreign persons, provided, however, that in the case of a
29 foreign person which is an individual, a foreign branch of a
30 domestic corporation (other than a bank or savings association),
31 or a foreign corporation or a foreign partnership which is 80
32 percent or more owned or controlled, either directly or
33 indirectly, by one or more domestic corporations (other than
34 banks or savings associations), domestic partnerships, or
35 resident individuals, substantially all the proceeds of the loan
36 are for use outside the United States;
37 2. Making or placing deposits with foreign persons which
38 are banks or savings associations or foreign branches of banks
39 or savings associations, including foreign subsidiaries or
40 foreign branches of the taxpayer, or with other international
41 banking facilities; or
42 3. Entering into foreign exchange trading or hedging

140726

43 transactions in connection with the activities described in this
44 paragraph.
45
46 However, the term “eligible gross income” does not include any
47 amount derived by an international banking facility from making,
48 arranging for, placing, or servicing loans or making or placing
49 deposits if the loans or deposits of funds are secured by
50 mortgages, deeds of trust, or other liens upon real property
51 located in this state.
52 (c) The “applicable expenses” are any expenses or other
53 deductions attributable, directly or indirectly, to the eligible
54 gross income described in paragraph (b).
55 Section 5. Section 4 of this act is effective with respect
56 to taxable years beginning on or after January 1, 2013.
57
58 ========== T I T L E A M E N D M E N T ==========
59 And the title is amended as follows:
60 Delete lines 36 - 41
61 and insert:
62 a cross-reference; amending s. 220.63, F.S.; applying
63 the revisions to specified taxable years; revising the
64 calculation of the franchise tax base; providing that
65 the deduction from adjusted federal income be
66 apportioned to the state; specifying that eligible
67 gross income be gross income derived in this state;
68 providing retroactive

640428

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Rules (Ring) recommended the following:

Senate Amendment

Delete lines 107 - 116
and insert:
maintenance costs of the facility. A county levying the tax for the purposes of this subparagraph may do so only by a majority plus one vote of the membership of the board of county commissioners and after approval of the proposed use of the tax revenues by a majority vote of the electors voting in a referendum. Referendum approval of the proposed use of the tax revenues may be in an election held before or after the effective date of the law enacting this subparagraph. The referendum ballot must include a brief description of the

640428

14 proposed use of the tax revenues and the following question:
15 ....FOR the Proposed Use
16 ....AGAINST the Proposed Use
17

749442

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Rules (Sobel) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Between lines 345 and 346
4 insert:
5 Section 1. Present subsections (2) and (3) of section
6 288.061, Florida Statutes, are renumbered as subsections (3) and
7 (4), respectively, and a new subsection (2) and subsection (5)
8 are added to that section, to read:
9 288.061 Economic development incentive application
10 process.—
11 (2) Beginning July 1, 2013, the department shall review and
12 evaluate each economic development incentive application for the
13 economic benefits of the proposed award of state incentives

749442

14 proposed for the project. The term "economic benefits" has the
15 same meaning as in s. 288.005. The Office of Economic and
16 Demographic Research shall review and evaluate the methodology
17 and model used to calculate the economic benefits. For purposes
18 of this requirement, an amended definition of economic benefits
19 may be developed in conjunction with the Office of Economic and
20 Demographic Research. The Office of Economic and Demographic
21 Research shall report on the methodology and model by September
22 1, 2013, and every third year thereafter, to the President of
23 the Senate and the Speaker of the House of Representatives.
24 (5)(a) The executive director may not approve an economic
25 development incentive application unless the application
26 includes a signed written declaration by the applicant which
27 must state that the applicant has read the information in the
28 application and that the information is true, correct, and
29 complete to the best of the applicant's knowledge and belief.
30 (b) After an economic development incentive application is
31 approved, the awardee shall provide, in each year that the
32 department is required to validate contractor performance, a
33 signed written declaration. The written declaration must state
34 that the awardee has reviewed the information and that the
35 information is true, correct, and complete to the best of the
36 awardee's knowledge and belief.
37 Section 2. Subsection (8) of section 288.0656, Florida
38 Statutes, is amended to read:
39 288.0656 Rural Economic Development Initiative.—
40 (8) REDI shall submit a report ~~to the Governor, the~~
41 ~~President of the Senate, and the Speaker of the House of~~
42 ~~Representatives each year on or before September 1~~ on all REDI

749442

43 activities for the prior fiscal year as a supplement to the
44 annual report required under s. 20.60. This report must ~~shall~~
45 include a status report on all projects currently being
46 coordinated through REDI, the number of preferential awards and
47 allowances made pursuant to this section, the dollar amount of
48 such awards, and the names of the recipients. The report must
49 ~~shall~~ also include a description of all waivers of program
50 requirements granted. The report must ~~shall~~ also include
51 information as to the economic impact of the projects
52 coordinated by REDI, and recommendations based on the review and
53 evaluation of statutes and rules having an adverse impact on
54 rural communities, and proposals to mitigate such adverse
55 impacts.
56 Section 3. Section 288.076, Florida Statutes, is created to
57 read:
58 288.076 Return on investment reporting for economic
59 development programs.—
60 (1) As used in this section, the term:
61 (a) “Jobs” has the same meaning as provided in s. 288.106.
62 (b) “Participant business” means an employing unit, as
63 defined in s. 443.036, that has entered into an agreement with
64 the department to receive a state investment.
65 (c) “Project” has the same meaning as provided in s.
66 288.106.
67 (d) “Project award date” means the date a participant
68 business enters into an agreement with the department to receive
69 a state investment.
70 (e) “State investment” means any state grants, tax
71 exemptions, tax refunds, tax credits, or other state incentives

749442

72 provided to a business under a program administered by the
73 department, including the capital investment tax credit under s.
74 220.191.
75 (2) The department shall maintain a website for the purpose
76 of publishing the information described in this section. The
77 information required to be published under this section must be
78 provided in a format accessible to the public which enables
79 users to search for and sort specific data and to easily view
80 and retrieve all data at once.
81 (3) Within 48 hours after expiration of the period of
82 confidentiality for project information deemed confidential and
83 exempt pursuant to s. 288.075, the department shall publish the
84 following information pertaining to each project:
85 (a) The projected economic benefits at the time of the
86 initial project award date.
87 (b) Project information, including:
88 1. The program or programs through which state investment
89 is being made.
90 2. The maximum potential cumulative state investment in the
91 project.
92 3. The target industry or industries, and any high-impact
93 sectors implicated by the project.
94 4. The county or counties that will be impacted by the
95 project.
96 5. The total cumulative local financial commitment and in-
97 kind support for the project.
98 (c) Participant business information, including:
99 1. The location of the headquarters of the participant
100 business or, if a subsidiary, the headquarters of the parent

749442

101 company.
102 2. The firm size class of the participant business or, if
103 the participant business is owned by a parent company, the firm
104 size class of the participant business's parent company, using
105 the firm size classes established by the United States
106 Department of Labor Bureau of Labor Statistics, and whether the
107 participant business qualifies as a small business as defined in
108 s. 288.703.
109 3. The date of the project award.
110 4. The expected duration of the contract.
111 5. The anticipated date when the participant business will
112 claim the last state investment.
113 (d) Project evaluation criteria, including:
114 1. Economic benefits generated by the project.
115 2. The net indirect and induced incremental jobs to be
116 generated by the project.
117 3. The net indirect and induced incremental capital
118 investment to be generated by the project.
119 4. The net indirect and induced incremental tax revenue
120 paid to the state to be generated by the project.
121 (e) Project performance goals, including:
122 1. The incremental direct jobs attributable to the project,
123 identifying the number of jobs generated and the number of jobs
124 retained.
125 2. The number of jobs generated and the number of jobs
126 retained by the project, and for projects commencing after
127 October 1, 2013, the median annual wage of persons holding such
128 jobs.
129 3. The incremental direct capital investment in the state

749442

130 generated by the project.
131 4. The incremental projected tax revenue to the state paid
132 by the participant business for the project.
133 (f) The total amount of the state investment disbursed to
134 the participant business to date under the terms of the
135 contract, itemized by incentive program.
136 (4) The department shall use methodology and formulas
137 established by the Office of Economic and Demographic Research
138 to calculate the economic benefits of each project. The
139 department shall calculate and publish on its website the
140 economic benefits of each project within 48 hours after the
141 conclusion of the agreement between each participant business
142 and the department. The Office of Economic and Demographic
143 Research shall provide a description of the methodology and
144 formulas used to calculate the economic benefits of a project to
145 the department, and the department shall publish the information
146 on its website within 48 hours after receiving such information.
147 (5) At least annually, from the project award date, the
148 department shall:
149 (a) Publish verified results to update the information
150 described in paragraphs (3)(b)-(f) to accurately reflect any
151 changes in the published information since the project award
152 date.
153 (b) Publish on its website the date on which the
154 information collected and published for each project was last
155 updated.
156 (6) The department shall annually publish information
157 relating to the progress of Quick Action Closing Fund projects,
158 including the average number of days between the date the

749442

159 department receives a completed application and the date on
160 which the application is approved.
161 (7) The department shall publish the following documents at
162 the times specified herein:
163 (a) Within 48 hours after expiration of the period of
164 confidentiality provided under s. 288.075, the department shall
165 publish the contract or agreement described in s. 288.061. The
166 contract or agreement must be redacted to protect the
167 participant business from disclosure of information that remains
168 confidential or exempt by law.
169 (b) Within 48 hours after submitting any report of findings
170 and recommendations made pursuant to s. 288.106(7)(d) concerning
171 a business's failure to complete a tax refund agreement pursuant
172 to the tax refund program for qualified target industry
173 businesses, the department shall publish such report.
174 (8) For projects completed before October 1, 2013, the
175 department shall compile and, by October 1, 2014, shall publish
176 the information described in subsections (3), (4), and (5), to
177 the extent such information is available and applicable.
178 (9) The provisions of this section which restrict the
179 department's publication of information are intended only to
180 limit the information that the department may publish on its
181 website and may not be construed as creating an exemption from
182 public records requirements under s. 119.07(1) or s. 24(a), Art.
183 I of the State Constitution.
184 (10) The department may adopt rules to administer this
185 section.
186
187 ========== T I T L E A M E N D M E N T ==========

749442

188 And the title is amended as follows:
189 Delete line 43
190 and insert:
191 act; amending s. 288.061, F.S.; requiring the
192 Department of Economic Opportunity to analyze each
193 economic development incentive application; providing
194 a definition for the term “economic benefits”;
195 prohibiting the executive director from approving an
196 economic development incentive application unless a
197 specified written declaration is received; requiring
198 an economic development incentive awardee to provide
199 certain declarations at specified intervals; amending
200 s. 288.0656, F.S.; requiring the Rural Economic
201 Development Initiative to submit a report to
202 supplement the Department of Economic Opportunity’s
203 annual report; deleting certain reporting
204 requirements; creating s. 288.076, F.S.; providing
205 definitions; requiring the department to publish on a
206 website specified information concerning state
207 investment in economic development programs; requiring
208 the department to use methodology and formulas
209 established by the Office of Economic and Demographic
210 Research for specified calculations; requiring the
211 Office of Economic and Demographic Research to provide
212 a description of specified methodology and formulas to
213 the department and requiring the department to publish
214 this description on its website within a specified
215 period; providing procedures and requirements for
216 reviewing, updating, and supplementing specified

749442

217 published information; requiring the department to
218 annually publish information relating to the progress
219 of Quick Action Closing Fund projects; requiring the
220 department to publish certain confidential information
221 pertaining to participant businesses upon expiration
222 of a specified confidentiality period; requiring the
223 department to publish certain reports concerning
224 businesses that fail to complete tax refund agreements
225 under the tax refund program for qualified target
226 industry businesses; providing for construction and
227 legislative intent; authorizing the department to
228 adopt rules; amending s. 288.1162, F.S.; authorizing a

130470

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Rules (Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete lines 419 - 464
and insert:
(5)(a) Before certifying an applicant as a professional sports franchise renovation facility, the department shall determine that the following requirements are met:
1. A county, municipality, or other public entity is responsible for the construction, management, or operation of the professional sports franchise facility or holds title to the property on which the professional sports franchise facility is located.
2. The applicant has a verified copy of a signed agreement

130470

14 with a professional sports franchise for the use of the facility
15 for a term of at least the next 20 years.
16 3. The applicant has an independent analysis or study,
17 verified by the department, which demonstrates that the amount
18 of revenue generated by the taxes imposed under chapter 212 with
19 respect to the use and operation of the renovated professional
20 sports franchise facility will equal or exceed $3 million
21 annually.
22 4. The county or municipality in which the professional
23 sports franchise renovation facility is located has certified by
24 resolution after a public hearing that the application serves a
25 public purpose.
26 5. The applicant has demonstrated that the cost to renovate
27 the facility will be more than $300 million, including
28 permitting, architectural, and engineering fees, and that at
29 least a majority of the total construction cost, exclusive of
30 in-kind contributions, will be paid for by the ownership group
31 of the professional sports franchise or other private sources.
32 (b) The department may not certify an applicant as a
33 professional sports franchise renovation facility or award any
34 other economic development incentive to such applicant if:
35 1. The county in which the renovation facility is located
36 fails to hold a referendum on the renovation proposal pursuant
37 to s. 125.0104(3)(n)2.; or
38 2. The renovation proposal fails to gain the approval of a
39 majority of the electors voting in a referendum held pursuant to
40 s. 125.0104(3)(n)2.
41 (6)(a) ~~(5)~~ An applicant certified as a facility for a new or
42 retained professional sports franchise may use funds provided

130470

43 under s. 212.20 only for the public purpose of paying for the
44 acquisition, construction, reconstruction, or renovation of a
45 facility for a new or retained professional sports franchise to
46 pay or pledge for the payment of debt service on, or to fund
47 debt service reserve funds, arbitrage rebate obligations, or
48 other amounts payable with respect to, bonds issued for the
49 acquisition, construction, reconstruction, or renovation of such
50 facility or for the reimbursement of such costs or the
51 refinancing of bonds issued for such purposes.
52 (b) An applicant certified as a professional sports
53 franchise renovation facility may use funds provided under s.
54 212.20 only for the public purpose of renovating the facility to
55 pay or pledge for the debt service on, or to fund debt service
56 reserve funds, arbitrage rebate obligations, or other amounts
57 payable with respect to bonds issued for the renovation of the
58 facility or for the reimbursement of the costs or the
59 refinancing of bonds issued for that purpose. If the franchise
60 leaves the renovation facility, or the county or municipality in
61 which the renovation facility is located, during the
62 certification period, the applicant shall return all funds
63 provided under s. 212.20 for the renovation facility to the
64 department.
65
66 ========== T I T L E A M E N D M E N T ==========
67 And the title is amended as follows:
68 Delete lines 52 - 53
69 and insert:
70 facility or awarding an economic development
71 incentive; limiting the use of certain funds by a

130470

72 professional sports franchise renovation facility;
73 requiring a professional sports renovation facility
74 that leaves the county or renovated facility to return
75 funds provided for the renovation;

123940

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Rules (Gardiner, Thrasher, and Lee) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 190 - 319
4 and insert:
5 Section 2. Paragraph (d) of subsection (6) of section
6 212.20, Florida Statutes, is amended to read:
7 212.20 Funds collected, disposition; additional powers of
8 department; operational expense; refund of taxes adjudicated
9 unconstitutionally collected.—
10 (6) Distribution of all proceeds under this chapter and s.
11 202.18(1)(b) and (2)(b) shall be as follows:
12 (d) The proceeds of all other taxes and fees imposed

123940

13 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
14 and (2)(b) must ~~shall~~ be distributed as follows:
15 1. In any fiscal year, the greater of $500 million, minus
16 an amount equal to 4.6 percent of the proceeds of the taxes
17 collected pursuant to chapter 201, or 5.2 percent of all other
18 taxes and fees imposed pursuant to this chapter or remitted
19 pursuant to s. 202.18(1)(b) and (2)(b) must ~~shall~~ be deposited
20 in monthly installments into the General Revenue Fund.
21 2. After the distribution under subparagraph 1., 8.814
22 percent of the amount remitted by a sales tax dealer located
23 within a participating county pursuant to s. 218.61 must ~~shall~~
24 be transferred into the Local Government Half-cent Sales Tax
25 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
26 transferred must ~~shall~~ be reduced by 0.1 percent, and the
27 department shall distribute this amount to the Public Employees
28 Relations Commission Trust Fund less $5,000 each month, which
29 must ~~shall~~ be added to the amount calculated in subparagraph 3.
30 and distributed accordingly.
31 3. After the distribution under subparagraphs 1. and 2.,
32 0.095 percent must ~~shall~~ be transferred to the Local Government
33 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant
34 to s. 218.65.
35 4. After the distributions under subparagraphs 1., 2., and
36 3., 2.0440 percent of the available proceeds must ~~shall~~ be
37 transferred monthly to the Revenue Sharing Trust Fund for
38 Counties pursuant to s. 218.215.
39 5. After the distributions under subparagraphs 1., 2., and
40 3., 1.3409 percent of the available proceeds must ~~shall~~ be
41 transferred monthly to the Revenue Sharing Trust Fund for

123940

42 Municipalities pursuant to s. 218.215. If the total revenue to
43 be distributed pursuant to this subparagraph is at least as
44 great as the amount due from the Revenue Sharing Trust Fund for
45 Municipalities and the former Municipal Financial Assistance
46 Trust Fund in state fiscal year 1999-2000, a ~~no~~ municipality may
47 not ~~shall~~ receive less than the amount due from the Revenue
48 Sharing Trust Fund for Municipalities and the former Municipal
49 Financial Assistance Trust Fund in state fiscal year 1999-2000.
50 If the total proceeds to be distributed are less than the amount
51 received in combination from the Revenue Sharing Trust Fund for
52 Municipalities and the former Municipal Financial Assistance
53 Trust Fund in state fiscal year 1999-2000, each municipality
54 shall receive an amount proportionate to the amount it was due
55 in state fiscal year 1999-2000.
56 6. Of the remaining proceeds:
57 a. In each fiscal year, the sum of $29,915,500 must ~~shall~~
58 be divided into as many equal parts as there are counties in the
59 state, and one part must ~~shall~~ be distributed to each county.
60 The distribution among the several counties must begin each
61 fiscal year on or before January 5th and continue monthly for a
62 total of 4 months. If a local or special law required that any
63 moneys accruing to a county in fiscal year 1999-2000 under the
64 then-existing provisions of s. 550.135 be paid directly to the
65 district school board, special district, or a municipal
66 government, such payment must continue until the local or
67 special law is amended or repealed. The state covenants with
68 holders of bonds or other instruments of indebtedness issued by
69 local governments, special districts, or district school boards
70 before July 1, 2000, that it is not the intent of this

123940

71 subparagraph to adversely affect the rights of those holders or
72 relieve local governments, special districts, or district school
73 boards of the duty to meet their obligations as a result of
74 previous pledges or assignments or trusts entered into which
75 obligated funds received from the distribution to county
76 governments under then-existing s. 550.135. This distribution
77 specifically is in lieu of funds distributed under s. 550.135
78 before July 1, 2000.
79 b. The department shall, pursuant to s. 288.1162,
80 distribute $166,667 monthly ~~pursuant to s. 288.1162~~ to each
81 applicant certified as a facility for a new or retained
82 professional sports franchise ~~pursuant to s. 288.1162~~. Up to
83 $41,667 must ~~shall~~ be distributed monthly by the department to
84 each certified applicant as defined in s. 288.11621 for a
85 facility for a spring training franchise. However, not more than
86 $416,670 may be distributed monthly in the aggregate to all
87 certified applicants for facilities for spring training
88 franchises. Distributions begin 60 days after such certification
89 and continue for not more than 30 years, except as otherwise
90 provided in s. 288.11621. A certified applicant identified in
91 this sub-subparagraph may not receive more in distributions than
92 expended by the applicant for the public purposes provided for
93 in s. 288.1162 ~~288.1162(5)~~ or s. 288.11621(3).
94 c. Beginning 30 days after notice by the Department of
95 Economic Opportunity to the Department of Revenue that an
96 applicant has been certified as the professional golf hall of
97 fame pursuant to s. 288.1168 and is open to the public, $166,667
98 must ~~shall~~ be distributed monthly, for up to 300 months, to the
99 applicant.

123940

100 d. Beginning 30 days after notice by the Department of
101 Economic Opportunity to the Department of Revenue that the
102 applicant has been certified as the International Game Fish
103 Association World Center facility pursuant to s. 288.1169, and
104 the facility is open to the public, $83,333 must ~~shall~~ be
105 distributed monthly, for up to 168 months, to the applicant.
106 This distribution is subject to reduction pursuant to s.
107 288.1169. A lump sum payment of $999,996 must ~~shall~~ be made,
108 after certification and before July 1, 2000.
109 e. Beginning 45 days after notice by the Department of
110 Economic Opportunity that an applicant has been approved by the
111 Legislature and certified by the department under s. 288.11625,
112 the department shall distribute each month an amount equal to
113 one-twelfth the annual distribution amount certified by the
114 Department of Economic Opportunity for the applicant. This
115 distribution is subject to adjustment pursuant to s. 288.11625.
116 The department may not distribute more than $15 million annually
117 to all applicants approved by the Legislature and certified by
118 the Department of Economic Opportunity pursuant to s. 288.11625.
119 7. All other proceeds must remain in the General Revenue
120 Fund.
121 Delete lines 346 - 506
122 and insert:
123 Section 7. Section 288.11625, Florida Statutes, is created
124 to read:
125 288.11625 Sports Development.—
126 (1) ADMINISTRATION.—The department shall serve as the state
127 agency responsible for screening applicants for state funding
128 under s. 212.20(6)(d)6.e.

123940

129 (2) DEFINITIONS.— As used in this section, the term:
130 (a) “Applicant” means a unit of local government as defined
131 in s. 218.369 that is responsible for the construction,
132 management, or operation of a facility; or a not-for-profit
133 entity or for-profit entity if a unit of local government holds
134 title to the underlying property on which the facility is
135 located.
136 (b) “Agreement” means a signed agreement between a unit of
137 local government and a beneficiary.
138 (c) “Beneficiary” means a major professional sports
139 franchise, sports franchise or association, or an off-season
140 sports training franchise that occupies or utilizes a facility
141 as the facility’s primary tenant. A beneficiary may also be an
142 applicant under this section.
143 (d) “Facility” means a facility primarily used to host
144 games or events held by a beneficiary and does not include
145 ancillary activities including transient lodging facilities, or
146 retail operations unless physically connected to the facility.
147 For an off-season sports training franchise, the facility also
148 includes training facilities that are associated with the
149 primary facility, but does not include ancillary activities such
150 as transient lodging facilities, or retail operations unless
151 physically connected to the facility.
152 (e) “Major professional sports franchise” means a franchise
153 that is a member of and competes in the National Football
154 League, the National Hockey League, the National Basketball
155 Association, the National League or American League of Major
156 League Baseball, or Major League Soccer.
157 (f) “Sports franchise or association” means either a

123940

158 professional sports franchise that is not a major professional
159 sports franchise as defined in paragraph (e), or a nationally-
160 recognized professional sports association.
161 (g) "Off-season sports training franchise" means a major
162 professional sports franchise team that uses or occupies a local
163 government-owned facility during the months from February
164 through April.
165 (h) "Project" means a proposed construction,
166 reconstruction, renovation, or improvement of a facility.
167 (i) "Signature event" means a professional sports event
168 with significant export factor potential. For purposes of this
169 paragraph, "export factor" means the attraction of economic
170 activity or growth into the state that otherwise would not have
171 occurred. Examples of signature events may include, but are not
172 limited to:
173 1. National Football League Super Bowls.
174 2. College football bowl games and playoff games.
175 3. College basketball and baseball tournaments and
176 championships.
177 4. Major professional sports franchise All-Star games.
178 5. International sporting events and tournaments.
179 6. Professional automobile race championships or Formula 1
180 Grand Prix.
181 (3) PURPOSE.—The purpose of this section is to provide
182 applicants state funding under s. 212.20(6)(d)6.e. for the
183 public purpose of constructing, reconstructing, renovating, or
184 improving a facility.
185 (4) APPLICATION AND APPROVAL PROCESS.—
186 (a) The department shall establish the procedures and

123940

187 application forms deemed necessary pursuant to the requirements
188 of this section. The department may notify an applicant of any
189 additional required or incomplete information necessary to
190 evaluate an application.
191 (b) The annual application period shall be from June 1
192 through November 1.
193 (c) Within 60 days from receipt of a completed application,
194 the department shall complete its evaluation of the application
195 as provided under subsection (5) and notify the applicant in
196 writing as to the department's decision to recommend approval of
197 the applicant by the Legislature or to deny the application.
198 (d) Annually by February 1, the department shall rank all
199 applicants and shall provide to the Legislature the list of all
200 recommended applicants in ranked order of projects most likely
201 to positively impact the state based on required criteria
202 established in this section. The list shall include the
203 department's evaluation of the applicant.
204 (e) A recommended applicant's request for funding must be
205 approved by the legislature by general law.
206 1. An application by a unit of local government that is
207 approved by the Legislature and subsequently certified by the
208 department remains certified for the duration of the
209 beneficiary's agreement with the applicant or for 30 years,
210 whichever is less, provided the certified applicant has an
211 agreement with a beneficiary for at least 15 more years at the
212 time of initial certification by the department.
213 2. An application by a beneficiary that is approved by the
214 Legislature and subsequently certified by the department remains
215 certified for the duration of the beneficiary's agreement with

123940

216 the unit of local government that owns the underlying property
217 or for 30 years, whichever is less, provided the certified
218 applicant has an agreement with the unit of local government for
219 at least 15 more years at the time of initial certification by
220 the department.
221 3. An applicant approved by the Legislature and certified
222 by the department must enter into a contract with the department
223 that:
224 a. Specifies the terms of the state's investment.
225 b. States the criteria that the certified applicant must
226 meet in order to remain certified.
227 c. States that the certified applicant is subject to
228 decertification, as recommended by the department and approved
229 by the Legislature, or reduction of funding if the certified
230 applicant fails to comply with this section or the contract.
231 d. Specifies information that the certified applicant must
232 report to the department.
233 e. Includes any provisions deemed prudent by the
234 department.
235 4. Previously certified applicants do not require
236 legislative approval each year to receive state funding.
237 (f) Applications recommended by the department and not
238 approved by the Legislature may reapply and update any
239 information in the original application as required by the
240 department.
241 (g) The department may recommend no more than one
242 distribution under this section for any applicant, facility, or
243 beneficiary at any single point in time.
244 (5) EVALUATION PROCESS.—

123940

245 (a) Before recommending an applicant to receive a state
246 distribution under s. 212.20(6)(d)6.e., the department must
247 verify that:
248 1. The applicant or beneficiary is responsible for the
249 construction, reconstruction, renovation, or improvement of a
250 facility.
251 2. If the applicant is also the beneficiary, a unit of
252 local government holds title to the property on which the
253 facility and project is located.
254 3. The project for which the applicant is seeking state
255 funding has not commenced construction.
256 4. If the applicant is a unit of local government in which
257 the facility will be located, the unit of local government has
258 an exclusive intent agreement to negotiate in Florida with a
259 beneficiary.
260 5.a. The unit of local government in which the facility
261 will be located supports the application for state funds. Such
262 support must be verified by the adoption of a resolution after a
263 public hearing that the project serves a public purpose.
264 b. If the unit of local government is required to hold a
265 referendum for approval under s. 125.0104(3)(n)2., such
266 referendum must be affirmatively passed by a majority-plus-one
267 vote for the applicant to receive state funding under this
268 section.
269 6. The applicant or beneficiary has not previously
270 defaulted or failed to meet any statutory requirements of a
271 previous state-administered sports-related program under ss.
272 288.1162, 288.11621, or 288.1168.
273 7. The applicant or beneficiary has sufficiently

123940

274 demonstrated a commitment to hire Florida residents, contract
275 with Florida-based firms, and purchase locally-available
276 building materials to the greatest extent possible.
277 8. If the applicant is a unit of local government, the
278 applicant has a certified copy of a signed agreement with a
279 beneficiary for the use of the facility. If the applicant is a
280 beneficiary, the beneficiary must enter into an agreement with
281 the department. The applicant or beneficiary's agreement must
282 also require the following:
283 a. The beneficiary must reimburse the state for state funds
284 distributed if the beneficiary relocates before the agreement
285 expires.
286 b. The beneficiary must pay for signage or advertising
287 within the facility. The signage or advertising must be placed
288 in a prominent location as close to the field of play or
289 competition as is practical, displayed consistent with signage
290 or advertising in the same location and like value, and must
291 feature Florida advertising approved by the Florida Tourism
292 Industry Marketing Corporation.
293 c. The owner of a beneficiary must agree to reimburse the
294 state for state funds if the owner sells the beneficiary before
295 the agreement expires. Funds paid to the state must be in lump
296 sum and paid within 90 days after final sale of the beneficiary.
297 9. The project will be commenced within 12 months of
298 receiving state funds.
299 (b) The department shall competitively evaluate and rank
300 applicants that submit applications for state funding received
301 during the application period using the following criteria to
302 evaluate the applicant's ability to positively impact the state:

123940

303 1. The proposed use of state funds.
304 2. The length of time that a beneficiary has agreed to use
305 the facility.
306 3. The percentage of total project funds provided by the
307 applicant and the percentage of total project funds provided by
308 the beneficiary.
309 4. The number and type of signature events the facility is
310 likely to attract over the duration of the agreement with the
311 beneficiary.
312 5. The anticipated increase in average annual ticket sales
313 and attendance at the facility due to the project.
314 6. The potential to attract out-of-state visitors to the
315 facility.
316 7. The length of time a beneficiary has been in the state
317 or partnered with the unit of local government.
318 8. The multi-use capabilities of the facility.
319 9. The facility's projected use of Florida workers, firms,
320 and building materials.
321 10. The amount of private and local financial or in-kind
322 contributions to the project.
323 11. The amount of positive advertising or media coverage
324 the facility generates.
325 (c) The department shall determine if a beneficiary is a
326 major professional sports franchise, a sports franchise or
327 association, or an off-season sports training franchise.
328 1. If the beneficiary is a major professional sports
329 franchise, the applicant is eligible to receive annual
330 distributions equaling up to 80 percent of the new incremental
331 state sales tax generated to the state over 12 months, up to $3

123940

332 million over 12 months.
333 2. If the beneficiary is a professional sports franchise or
334 association, the applicant is eligible to receive annual
335 distributions equaling up to 100 percent of the new incremental
336 state sales tax generated to the state over 12 months, up to $2
337 million over 12 months.
338 3. If the beneficiary is an off-season sports training
339 franchise, the applicant is eligible to receive annual
340 distributions equaling up to 100 percent of the new incremental
341 state sales taxes generated to the state over 12 months, up to
342 $666,660 over 12 months.
343 (6) DISTRIBUTION.—
344 (a) At the time of initial evaluation and review by the
345 department under subsection (5), the applicant must provide an
346 analysis by an independent certified public accountant which
347 demonstrates the amount of the revenues generated by the taxes
348 imposed under chapter 212 with respect to the use and operation
349 of the facility over the 12 month period immediately prior to
350 the beginning of the application period. This amount shall be
351 the baseline. The independent analysis must be verified by the
352 department.
353 (b) Except in the case of the period of time prior to
354 completion of a project or the first four annual distributions,
355 whichever is sooner, a certified applicant's annual distribution
356 shall be based upon the new incremental sales taxes generated by
357 sales at the facility during the immediately previous 12 month
358 period, not to exceed the limitations established in subsection
359 (5)(c).
360 (c) For the initial annual distribution under s.

123940

361 212.20(6)(d)6.e., the department shall estimate the amount of
362 new incremental state sales taxes above the baseline that will
363 be generated by the sales at the facility as a result of the
364 project. This amount shall be used to calculate the initial
365 annual distribution to the applicant. The initial annual
366 distribution may not exceed the lesser of the estimated new
367 incremental state sales taxes above the baseline or the limits
368 established in subsection (5)(c). The initial annual
369 distribution amount shall continue through the next full 12
370 month period following completion of the project or the
371 certified applicant's first four years of annual distributions,
372 whichever is earlier.
373 (d)1. Beginning in the first full 12 month period after
374 completion of a project or first four annual distributions,
375 whichever is earlier, the applicant shall certify to the
376 department the actual amount of state sales taxes generated by
377 sales at the facility over that 12 month period. The applicant
378 shall submit the certification within 60 days of the end of the
379 previous 12 month period and such certification must be done by
380 an analysis by an independent certified public accountant. The
381 department shall verify the analysis and compare the actual new
382 incremental state sales taxes generated by sales at the facility
383 to the previous period's new incremental state sales taxes upon
384 which the annual distribution amount was based.
385 2. If the actual new incremental increase in state sales
386 taxes generated by sales at the facility during the most recent
387 12 month period was different than the actual 12 month new
388 incremental increase in state sales taxes generated by sales at
389 the facility upon which the previous period's annual

123940

390 distribution was based then the department shall certify to the
391 Department of Revenue an adjustment to the annual distribution
392 for the current 12 month period downward or upward as
393 appropriate to reflect the actual new incremental increase in
394 state sales taxes generated by sales at the facility during the
395 previous 12 month period, not to exceed the maximum amount
396 allowable per applicant pursuant to subsection (5)(c).
397 (e) Upon certification by the department, the Department of
398 Revenue shall adjust the annual distribution under s.
399 212.20(6)(d)6.e. for the applicant. The first adjusted monthly
400 distribution in a 12 month period, and subsequent monthly
401 distributions in the same period if necessary, shall also be
402 adjusted for downward or upward adjustment that should have
403 begun after the most recent 12 month period.
404 (f) The Department of Revenue shall begin distributions
405 within 45 days after notification of initial certification from
406 the department.
407 (g) The department must consult with the Department of
408 Revenue and the Office of Economic and Demographic Research to
409 develop a standard calculation for estimating new incremental
410 state sales taxes generated by sales at the facility and
411 adjustments to distributions.
412 (h) In any 12 month period when total distributions for all
413 certified applicants equal $15 million, the department may not
414 certify new distributions for any additional applicants or
415 certify to the Department of Revenue any upward adjustments in
416 existing distributions.
417 (7) USE OF FUNDS.—An applicant certified under this section
418 may use state funds only for the public purpose of constructing,

123940

419 reconstructing, renovating, or improving a facility, or
420 reimbursing such costs.
421 (8) REPORTS.—
422 (a) On or before November 1 of each year, an applicant
423 certified under this section and approved to receive state funds
424 must submit to the department any information required by the
425 department. The department shall summarize this information for
426 inclusion in the report to the Legislature due February 1 under
427 subsection (4)(d).
428 (b) Every 5 years following the first month that an
429 applicant receives a monthly distribution, the department must
430 verify that the applicant is meeting all program requirements.
431 If the applicant is not meeting program requirements, the
432 department must notify the Governor and Legislature of the
433 requirements not being met and must make recommendations for
434 future action, including reducing or halting future
435 distributions, as part of the report to the Legislature due
436 February 1 under paragraph (4)(d). The department shall consider
437 certain exceptions that may have prevented the applicant from
438 meeting certain program requirements. Such exceptions include:
439 1. Force majeure events.
440 2. Significant economic downturn.
441 3. Other extenuating circumstances.
442 (9) AUDITS.— The Auditor General may conduct audits as
443 provided in s. 11.45 to verify that the distributions under this
444 section are expended as required in this section. If the Auditor
445 General determines that the distribution payments under this
446 section are not expended as required by this section, the
447 Auditor General shall notify the Department of Revenue, which

123940

448 may pursue recovery of distributions under the laws and rules
449 governing the assessment of taxes.
450 (10) APPLICATION RELATED TO SIGNATURE EVENT.—An applicant
451 may apply for the program under this section after May 1, 2013,
452 if the applicant intends to apply for a signature event prior to
453 the 2014 Regular Session for which state funds to renovate a
454 major professional sports franchise facility are requested. The
455 department must review the application and recommend approval by
456 the Legislature as required under this section. The Legislative
457 Budget Commission is authorized to approve applications as
458 provided under this subsection. State funds may not be
459 distributed until the department notifies the Department of
460 Revenue that the applicant was approved by the Legislative
461 Budget Commission and certified by the department. An applicant
462 certified under this subsection is subject to all other
463 provisions and requirements of this section.
464 (11) DISCONTINUATION OF DISTRIBUTIONS.— The Department of
465 Revenue shall immediately halt future distributions to any
466 applicant certified under this section upon notice from the
467 department that:
468 (a) An applicant’s beneficiary has broken the terms of its
469 agreement with the applicant and relocated from the facility or
470 that the applicant has been decertified.
471 (b) The department has determined that an applicant has
472 submitted any information or made a representation that is
473 determined to be false, misleading, deceptive, or otherwise
474 untrue.
475 (c) The applicant has requested to halt future
476 distributions.

123940

477 (12) RULEMAKING.—The department may adopt rules to
478 implement this section. The Department of Revenue may adopt
479 rules to implement this section.
480 Section 8. Contingent upon enactment of the Economic
481 Development Program Evaluation as set forth in SB 406 or similar
482 legislation, section 288.116255, Florida Statutes, is created to
483 read:
484 288.116255 Sports Development Program Evaluation.—Beginning
485 in 2015, the Sports Development program shall be evaluated as
486 part of the Economic Development Program Evaluation, and every 3
487 years thereafter.
488 Section 9. (1) The executive directors of the Department of
489 Revenue and the Department of Economic Opportunity are
490 authorized, and all conditions are deemed met, to adopt
491 emergency rules under ss. 120.536(1) and 120.54(4), Florida
492 Statutes, for the purpose of implementing this act.
493 (2) Notwithstanding any provision of law, such emergency
494 rules shall remain in effect for 6 months after the date adopted
495 and may be renewed during the pendency of procedures to adopt
496 permanent rules addressing the subject of the emergency rules.
497 Section 10. This act shall take effect upon becoming law.
498
499 ========== T I T L E A M E N D M E N T ==========
500 And the title is amended as follows:
501 Delete lines 32 - 35
502 and insert:
503 212.20, F.S.; authorizing a distribution for a an
504 applicant that has been approved by the Legislature
505 and certified by the Department of Economic

123940

506 Opportunity under s. 288.11625; providing a
507 limitation; amending s. 220.153, F.S.; conforming
508 Delete lines 43 - 59
509 and insert:
510 act; creating s. 288.11625, F.S.; provides that the
511 Department of Economic Opportunity shall screen
512 applicants for state funding for sports development;
513 defining the terms “applicant,” “agreement,”
514 “beneficiary,” “facility,” “major professional sports
515 franchise,” “sports franchise or association,” “off-
516 season sports training franchise,” “project,” and
517 “signature event”; providing a purpose to provide
518 funding for applicants for constructing,
519 reconstructing, renovating, or improving a facility;
520 providing an application and approval process;
521 providing for an annual application period from June 1
522 to November 1; providing for the Department of
523 Economic Opportunity to submit recommendations to the
524 Legislature by February 1; requiring Legislative
525 approval for state funding; providing for a contract
526 between the department and the applicant; providing
527 evaluation criteria for an applicant to receive state
528 funding; providing for reimbursement of the state
529 funding under certain circumstances; providing for
530 evaluation and ranking of applicants under certain
531 criteria; allowing the department to determine the
532 type of beneficiary; providing levels of state funding
533 up to a certain amount of new incremental state sales
534 tax revenue; providing for a distribution and

123940

535 calculation; providing for adjustment of the
536 distribution; requiring the Department of Revenue to
537 distribute funds within 45 days of notification by the
538 department; limiting annual distributions to $15
539 million; limiting use of funds; requiring an applicant
540 to submit information to the department annually;
541 requiring a 5 year review; authorizing the Auditor
542 General to conduct audits; providing for an
543 application related to a signature event; authorizing
544 the Legislative Budget Commission to approve an
545 application; providing for discontinuation of
546 distributions under certain circumstances; permitting
547 the Department of Economic Opportunity and the
548 Department of Revenue to adopt rules; contingently
549 creating s. 288.116255, F.S.; providing for an
550 evaluation; authorizing the Department of Revenue and
551 the Department of Economic Opportunity to adopt
552 emergency
553 rules; providing an effective date.

601558

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Rules (Margolis) recommended the following:

Senate Amendment to Amendment (123940) (with title amendment)

Delete line 463
and insert:
provisions and requirements of this section. An applicant approved by the Legislature and subsequently certified by the department under this subsection that pledges the funds distributed under s. 212.20(6)(d)6.e. as debt service must enter into an agreement with the department to pay to the department an amount equal to the proceeds from the sale of any such bonds. Payment is due within one year after the last distribution is made, but may be made at any time before that date. Payments

601558

14 must be deposited into the General Revenue Fund.
15
16 ========== T I T L E A M E N D M E N T ==========
17 And the title is amended as follows:
18 Delete line 545
19 and insert:
20 application; requiring an applicant to repay proceeds
21 from the sale of any bonds issued that pledged the
22 funds distributed under s. 212.20(6)(d)6.3., F.S.;
23 providing for discontinuation of

469876

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Rules (Sobel) recommended the following:

Senate Amendment to Amendment (123940) (with title amendment)

Delete line 463
and insert:
provisions and requirements of this section. An applicant approved by the Legislature and subsequently certified by the department under this subsection that pledges the funds distributed under s. 212.20(6)(d)6.e. as debt service must enter into an agreement with the department to pay to the department an amount equal to the proceeds from the sale of any such bonds. Payment is due within one year after the last distribution is made, but may be made at any time before that date. Payments

469876

14 must be deposited into the General Revenue Fund.
15
16 ========== T I T L E A M E N D M E N T ==========
17 And the title is amended as follows:
18 Delete line 545
19 and insert:
20 application; requiring an applicant to repay proceeds
21 from the sale of any bonds issued that pledged the
22 funds distributed under s. 212.20(6)(d)6.3., F.S.;
23 providing for discontinuation of

By the Committee on Appropriations; and Senators Braynon and Abruzzo

576-02451-13 2013306c1

A bill to be entitled

An act relating to economic development; amending s. 125.0104, F.S.; providing that tourist development tax revenues may also be used to pay the debt service on bonds that finance the renovation of a professional sports facility that is publicly owned, or that is on publicly owned land, which is publicly operated or operated by the owner of a professional sports franchise or other lessee; requiring that the renovation costs exceed a specified amount; allowing certain fees and costs to be included in the cost for renovation; requiring private contributions to the professional sports facility as a condition for the use of tourist development taxes; authorizing the use of certain tax revenues to pay for operation and maintenance costs of the renovated facility; requiring a majority-plus-one vote of the membership of the board of county commissioners to levy a tax for renovation of a sports franchise facility after approval by a majority of the electors voting in a referendum to approve the proposal; authorizing the referendum to be held before or after the effective date of this act; providing requirements for the referendum ballot; providing for nonapplication of the prohibition against levying such tax in certain cities and towns under certain conditions; restricting certain counties from levying the tax; providing for controlling application notwithstanding conflicting provisions; authorizing the use of tourist development

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

576-02451-13 2013306c1

tax revenues for financing the renovation of a professional sports franchise facility; amending s. 212.20, F.S.; authorizing a tax rebate for a renovated professional sports facility; conforming a cross-reference; amending s. 218.64, F.S.; conforming a cross-reference; amending s. 220.153, F.S.; conforming a cross-reference; repealing s. 220.62(3) and (5), F.S., relating to the definition of the terms “international banking facility” and “foreign person” in the income tax code; repealing s. 220.63(5), F.S., relating to an income tax deduction for international banking facilities; providing retroactive applicability and effect of certain provisions of the act; amending s. 288.1162, F.S.; authorizing a professional sports franchise renovation facility to apply for certain state funds; defining the term “professional sports franchise renovation facility”; authorizing a professional sports franchise renovation facility to receive additional funding; requiring the Department of Economic Opportunity to make a determination that certain criteria are met before certifying a professional sports franchise renovation facility; limiting the use of certain funds by a professional sports franchise renovation facility; prohibiting the department from certifying more than one professional sports franchise renovation facility; clarifying that the limitations for certification apply to new or retained professional sports franchise facilities; amending s. 288.11621, F.S.; conforming a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

cross-reference; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (n) of subsection (3) and paragraph (a) of subsection (5) of section 125.0104, Florida Statutes, are amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

(n) In addition to any other tax that is imposed under this section, a county that has imposed the tax under paragraph (l) may impose an additional tax that is no greater than 1 percent on the exercise of the privilege described in paragraph (a) by a majority plus one vote of the membership of the board of county commissioners, or as otherwise provided in this paragraph, in order to:

1. Pay the debt service on bonds issued to finance:

a. The construction, reconstruction, or renovation of a facility that is ~~either~~ publicly owned and operated~~,~~ or is publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred before ~~prior to~~ the issuance of such bonds for a new professional sports franchise as defined in s. 288.1162.

b. The acquisition, construction, reconstruction, or renovation of a facility ~~either~~ publicly owned and operated, or publicly owned and operated by the owner of a professional

sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred before ~~prior to~~ the issuance of such bonds for a retained spring training franchise.

2. Pay the debt service on bonds issued to finance the renovation of a professional sports franchise facility that is publicly owned or located on land that is publicly owned and that is publicly operated or operated by the owner of a professional sports franchise or other lessee who has sufficient expertise or financial capability to operate the facility, and to pay the planning and design costs incurred before the issuance of such bonds for the renovated professional sports facility. The cost to renovate the facility must be more than $300 million, including permitting, architectural, and engineering fees, and at least a majority of the total construction cost, exclusive of in-kind contributions, must be paid for by the ownership group of the professional sports franchise or other private sources. Tax revenues available to pay debt service on bonds may be used to pay for operation and maintenance costs of the facility. A county levying the tax for the purposes specified in this subparagraph may do so only by a majority-plus-one vote of the membership of the board of county commissioners and after approval of the proposal by a majority vote of the electors voting in a referendum. Referendum approval of the proposal may be in an election held before or after the effective date of this act. The referendum ballot must include a brief description of the proposal and the following question:

FOR the Proposal

AGAINST the Proposal

3.~~2.~~ Promote and advertise tourism in this ~~the~~ state ~~of Florida~~ and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must ~~shall~~ have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists.

A county that imposes the tax authorized in this paragraph may not expend any ad valorem tax revenues for the acquisition, expansion, construction, reconstruction, or renovation of a facility for which tax revenues are used pursuant to subparagraph 1. The provision of paragraph (b) which prohibits any county authorized to levy a convention development tax pursuant to s. 212.0305 from levying more than the 2 percent ~~2 percent~~ tax authorized by this section does ~~shall~~ not apply to the additional tax authorized by this paragraph in counties that ~~which~~ levy convention development taxes pursuant to s. 212.0305(4)(a) or (b). Subsection (4) does not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph is the first day of the second month following approval of the ordinance by the board of county commissioners or the first day of any subsequent month specified in the ordinance. A certified copy of such ordinance must ~~shall~~ be furnished by the county to the Department of Revenue within 10 days after approval of the ordinance.

(5) AUTHORIZED USES OF REVENUE.—

(a) All tax revenues received pursuant to this section by a county imposing the tourist development tax must ~~shall~~ be used

by that county for the following purposes only:

1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, auditoriums, aquariums, or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied. Tax revenues received pursuant to this section may also be used for promotion of zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. However, these purposes may be implemented through service contracts and leases with lessees with sufficient expertise or financial capability to operate such facilities;

2. To promote and advertise tourism in this ~~the~~ state ~~of Florida~~ and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must ~~shall~~ have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;

3. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency; ~~or~~

4. To finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control,

175 including shoreline protection, enhancement, cleanup, or
176 restoration of inland lakes and rivers to which there is public
177 access as those uses relate to the physical preservation of the
178 beach, shoreline, or inland lake or river. However, any funds
179 identified by a county as the local matching source for beach
180 renourishment, restoration, or erosion control projects included
181 in the long-range budget plan of the state's Beach Management
182 Plan, pursuant to s. 161.091, or funds contractually obligated
183 by a county in the financial plan for a federally authorized
184 shore protection project may not be used or loaned for any other
185 purpose. In counties of less than 100,000 population, no more
186 than 10 percent of the revenues from the tourist development tax
187 may be used for beach park facilities; or~~.~~
188 5. For other uses specifically allowed under subsection
189 (3).
190 Section 2. Paragraph (d) of subsection (6) of section
191 212.20, Florida Statutes, is amended to read:
192 212.20 Funds collected, disposition; additional powers of
193 department; operational expense; refund of taxes adjudicated
194 unconstitutionally collected.—
195 (6) Distribution of all proceeds under this chapter and s.
196 202.18(1)(b) and (2)(b) shall be as follows:
197 (d) The proceeds of all other taxes and fees imposed
198 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
199 and (2)(b) must ~~shall~~ be distributed as follows:
200 1. In any fiscal year, the greater of $500 million, minus
201 an amount equal to 4.6 percent of the proceeds of the taxes
202 collected pursuant to chapter 201, or 5.2 percent of all other
203 taxes and fees imposed pursuant to this chapter or remitted

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

204 pursuant to s. 202.18(1)(b) and (2)(b) must ~~shall~~ be deposited
205 in monthly installments into the General Revenue Fund.
206 2. After the distribution under subparagraph 1., 8.814
207 percent of the amount remitted by a sales tax dealer located
208 within a participating county pursuant to s. 218.61 must ~~shall~~
209 be transferred into the Local Government Half-cent Sales Tax
210 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
211 transferred must ~~shall~~ be reduced by 0.1 percent, and the
212 department shall distribute this amount to the Public Employees
213 Relations Commission Trust Fund less $5,000 each month, which
214 must ~~shall~~ be added to the amount calculated in subparagraph 3.
215 and distributed accordingly.
216 3. After the distribution under subparagraphs 1. and 2.,
217 0.095 percent must ~~shall~~ be transferred to the Local Government
218 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant
219 to s. 218.65.
220 4. After the distributions under subparagraphs 1., 2., and
221 3., 2.0440 percent of the available proceeds must ~~shall~~ be
222 transferred monthly to the Revenue Sharing Trust Fund for
223 Counties pursuant to s. 218.215.
224 5. After the distributions under subparagraphs 1., 2., and
225 3., 1.3409 percent of the available proceeds must ~~shall~~ be
226 transferred monthly to the Revenue Sharing Trust Fund for
227 Municipalities pursuant to s. 218.215. If the total revenue to
228 be distributed pursuant to this subparagraph is at least as
229 great as the amount due from the Revenue Sharing Trust Fund for
230 Municipalities and the former Municipal Financial Assistance
231 Trust Fund in state fiscal year 1999-2000, a ~~no~~ municipality may
232 not ~~shall~~ receive less than the amount due from the Revenue

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

233 Sharing Trust Fund for Municipalities and the former Municipal
234 Financial Assistance Trust Fund in state fiscal year 1999-2000.
235 If the total proceeds to be distributed are less than the amount
236 received in combination from the Revenue Sharing Trust Fund for
237 Municipalities and the former Municipal Financial Assistance
238 Trust Fund in state fiscal year 1999-2000, each municipality
239 shall receive an amount proportionate to the amount it was due
240 in state fiscal year 1999-2000.
241 6. Of the remaining proceeds:
242 a. In each fiscal year, the sum of $29,915,500 must ~~shall~~
243 be divided into as many equal parts as there are counties in the
244 state, and one part must ~~shall~~ be distributed to each county.
245 The distribution among the several counties must begin each
246 fiscal year on or before January 5th and continue monthly for a
247 total of 4 months. If a local or special law required that any
248 moneys accruing to a county in fiscal year 1999-2000 under the
249 then-existing provisions of s. 550.135 be paid directly to the
250 district school board, special district, or a municipal
251 government, such payment must continue until the local or
252 special law is amended or repealed. The state covenants with
253 holders of bonds or other instruments of indebtedness issued by
254 local governments, special districts, or district school boards
255 before July 1, 2000, that it is not the intent of this
256 subparagraph to adversely affect the rights of those holders or
257 relieve local governments, special districts, or district school
258 boards of the duty to meet their obligations as a result of
259 previous pledges or assignments or trusts entered into which
260 obligated funds received from the distribution to county
261 governments under then-existing s. 550.135. This distribution

262 specifically is in lieu of funds distributed under s. 550.135
263 before July 1, 2000.
264 b. The department shall, pursuant to s. 288.1162,
265 distribute $166,667 monthly ~~pursuant to s. 288.1162~~ to each
266 applicant certified as a facility for a new or retained
267 professional sports franchise and distribute $250,000 monthly to
268 an applicant certified as a professional sports franchise
269 renovation facility ~~pursuant to s. 288.1162~~. Up to $41,667 must
270 ~~shall~~ be distributed monthly by the department to each certified
271 applicant as defined in s. 288.11621 for a facility for a spring
272 training franchise. However, not more than $416,670 may be
273 distributed monthly in the aggregate to all certified applicants
274 for facilities for spring training franchises. Distributions
275 begin 60 days after such certification and continue for not more
276 than 30 years, except as otherwise provided in s. 288.11621. A
277 certified applicant identified in this sub-subparagraph may not
278 receive more in distributions than expended by the applicant for
279 the public purposes provided for in s. 288.1162 ~~288.1162(5)~~ or
280 s. 288.11621(3).
281 c. Beginning 30 days after notice by the Department of
282 Economic Opportunity to the Department of Revenue that an
283 applicant has been certified as the professional golf hall of
284 fame pursuant to s. 288.1168 and is open to the public, $166,667
285 must ~~shall~~ be distributed monthly, for up to 300 months, to the
286 applicant.
287 d. Beginning 30 days after notice by the Department of
288 Economic Opportunity to the Department of Revenue that the
289 applicant has been certified as the International Game Fish
290 Association World Center facility pursuant to s. 288.1169, and

291 the facility is open to the public, $83,333 must ~~shall~~ be
292 distributed monthly, for up to 168 months, to the applicant.
293 This distribution is subject to reduction pursuant to s.
294 288.1169. A lump sum payment of $999,996 must ~~shall~~ be made,
295 after certification and before July 1, 2000.
296 7. All other proceeds must remain in the General Revenue
297 Fund.
298 Section 3. Paragraph (a) of subsection (3) of section
299 218.64, Florida Statutes, is amended to read:
300 218.64 Local government half-cent sales tax; uses;
301 limitations.—
302 (3) Subject to ordinances enacted by the majority of the
303 members of the county governing authority and by the majority of
304 the members of the governing authorities of municipalities
305 representing at least 50 percent of the municipal population of
306 such county, counties may use up to $2 million annually of the
307 local government half-cent sales tax allocated to that county
308 for funding for any of the following applicants:
309 (a) A certified applicant as a facility for a new or
310 retained professional sports franchise under s. 288.1162 or a
311 certified applicant as defined in s. 288.11621 for a facility
312 for a spring training franchise. It is the Legislature's intent
313 that the provisions of s. 288.1162, including, but not limited
314 to, the evaluation process by the Department of Economic
315 Opportunity except for the limitation on the number of certified
316 applicants or facilities as provided in that section and the
317 restrictions set forth in s. 288.1162(9) ~~288.1162(8)~~, ~~shall~~
318 apply to an applicant's facility to be funded by local
319 government as provided in this subsection.

320 Section 4. Subsection (2) of section 220.153, Florida
321 Statutes, is amended to read:
322 220.153 Apportionment by sales factor.—
323 (2) APPORTIONMENT OF TAXES; ELIGIBILITY.—A taxpayer, not
324 including a financial organization as defined in s. 220.15(6) or
325 a bank, savings association, ~~international banking facility,~~ or
326 banking organization as defined in s. 220.62, doing business
327 within and without this state, who applies and demonstrates to
328 the Department of Economic Opportunity that, within a 2-year
329 period beginning on or after July 1, 2011, it has made qualified
330 capital expenditures equal to or exceeding $250 million may
331 apportion its adjusted federal income solely by the sales factor
332 set forth in s. 220.15(5), commencing in the taxable year that
333 the Department of Economic Opportunity approves the application,
334 but not before a taxable year that begins on or after January 1,
335 2013. Once approved, a taxpayer may elect to apportion its
336 adjusted federal income for any taxable year using the method
337 provided under this section or the method provided under s.
338 220.15.
339 Section 5. Subsections (3) and (5) of section 220.62,
340 Florida Statutes, are repealed.
341 Section 6. Subsection (5) of section 220.63, Florida
342 Statutes, is repealed.
343 Section 7. Sections 4, 5, and 6 of this act are effective
344 with respect to taxable years beginning on or after January 1,
345 2013.
346 Section 8. Section 288.1162, Florida Statutes, is amended
347 to read:
348 288.1162 Professional sports franchises; duties.—

349 (1) The department shall serve as the state agency for
350 screening applicants for state funding under s. 212.20 and for
351 certifying an applicant as a facility for a new or retained
352 professional sports franchise or a professional sports franchise
353 renovation facility.
354 (2) The department shall develop rules for the receipt and
355 processing of applications for funding under s. 212.20.
356 (3) As used in this section, the term:
357 (a) "New professional sports franchise" means a
358 professional sports franchise that was not based in this state
359 before April 1, 1987.
360 (b) "Professional sports franchise renovation facility"
361 means a sports facility that has continuously been a league-
362 authorized location for a professional sports franchise for 20
363 years or more and that otherwise meets the requirements for
364 certification of such a facility pursuant to this section.
365 (c) ~~(b)~~ "Retained professional sports franchise" means a
366 professional sports franchise that has had a league-authorized
367 location in this state on or before December 31, 1976, and has
368 continuously remained at that location, and has never been
369 located at a facility that has been previously certified under
370 any provision of this section.
371 (4) Before certifying an applicant as a facility for a new
372 or retained professional sports franchise, the department must
373 determine that:
374 (a) A "unit of local government" as defined in s. 218.369
375 is responsible for the construction, management, or operation of
376 the professional sports franchise facility or holds title to the
377 property on which the professional sports franchise facility is

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

378 located.
379 (b) The applicant has a verified copy of a signed agreement
380 with a new professional sports franchise for the use of the
381 facility for a term of at least 10 years, or in the case of a
382 retained professional sports franchise, an agreement for use of
383 the facility for a term of at least 20 years.
384 (c) The applicant has a verified copy of the approval from
385 the governing authority of the league in which the new
386 professional sports franchise exists authorizing the location of
387 the professional sports franchise in this state after April 1,
388 1987, or in the case of a retained professional sports
389 franchise, verified evidence that it has had a league-authorized
390 location in this state on or before December 31, 1976. As used
391 in this section, the term "league" means the National League or
392 the American League of Major League Baseball, the National
393 Basketball Association, the National Football League, or the
394 National Hockey League.
395 (d) The applicant has projections, verified by the
396 department, which demonstrate that the new or retained
397 professional sports franchise will attract a paid attendance of
398 more than 300,000 annually.
399 (e) The applicant has an independent analysis or study,
400 verified by the department, which demonstrates that the amount
401 of the revenues generated by the taxes imposed under chapter 212
402 with respect to the use and operation of the professional sports
403 franchise facility will equal or exceed $2 million annually.
404 (f) The municipality in which the facility for a new or
405 retained professional sports franchise is located, or the county
406 if the facility for a new or retained professional sports

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

407 franchise is located in an unincorporated area, has certified by
408 resolution after a public hearing that the application serves a
409 public purpose.
410 (g) The applicant has demonstrated that it has provided, is
411 capable of providing, or has financial or other commitments to
412 provide more than one-half of the costs incurred or related to
413 the improvement and development of the facility.
414 (h) An applicant previously certified as a new or retained
415 professional sports facility under ~~any provision of~~ this section
416 who has received funding under such certification is not
417 eligible for an additional certification except as a
418 professional sports franchise renovation facility.
419 (5) Before certifying an applicant as a professional sports
420 franchise renovation facility, the department shall determine
421 that the following requirements are met:
422 (a) A county, municipality, or other public entity is
423 responsible for the construction, management, or operation of
424 the professional sports franchise facility or holds title to the
425 property on which the professional sports franchise facility is
426 located.
427 (b) The applicant has a verified copy of a signed agreement
428 with a professional sports franchise for the use of the facility
429 for a term of at least the next 20 years.
430 (c) The applicant has an independent analysis or study,
431 verified by the department, which demonstrates that the amount
432 of the revenues generated by the taxes imposed under chapter 212
433 with respect to the use and operation of the renovated
434 professional sports franchise facility will equal or exceed $3
435 million annually.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

436 (d) The county or municipality in which the professional
437 sports franchise renovation facility is located has certified by
438 resolution after a public hearing that the application serves a
439 public purpose.
440 (e) The applicant has demonstrated that the cost to
441 renovate the facility will be more than $300 million, including
442 permitting, architectural, and engineering fees, and that at
443 least a majority of the total construction cost, exclusive of
444 in-kind contributions, will be paid for by the ownership group
445 of the professional sports franchise or other private sources.
446 (6) ~~(5)~~ An applicant certified as a facility for a new or
447 retained professional sports franchise may use funds provided
448 under s. 212.20 only for the public purpose of paying for the
449 acquisition, construction, reconstruction, or renovation of a
450 facility for a new or retained professional sports franchise to
451 pay or pledge for the payment of debt service on, or to fund
452 debt service reserve funds, arbitrage rebate obligations, or
453 other amounts payable with respect to, bonds issued for the
454 acquisition, construction, reconstruction, or renovation of such
455 facility or for the reimbursement of such costs or the
456 refinancing of bonds issued for such purposes. An applicant
457 certified as a professional sports franchise renovation facility
458 may use funds provided under s. 212.20 only for the public
459 purpose of renovating the facility to pay or pledge for the debt
460 service on, or to fund debt service reserve funds, arbitrage
461 rebate obligations, or other amounts payable with respect to
462 bonds issued for the renovation of the facility or for the
463 reimbursement of the costs or the refinancing of bonds issued
464 for that purpose.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

465 (7)~~(6)~~ The department shall notify the Department of
466 Revenue of any facility certified as a facility qualified
467 pursuant to this section ~~for a new or retained professional~~
468 ~~sports franchise~~. The department shall certify no more than
469 eight facilities as facilities for a new professional sports
470 franchise or as facilities for a retained professional sports
471 franchise, including in the total any facilities certified by
472 the former Department of Commerce before July 1, 1996. The
473 department may not certify more than one facility as a
474 professional sports franchise renovation ~~may make no more than~~
475 ~~one certification for any~~ facility.
476 (8)~~(7)~~ The Auditor General may conduct audits as provided
477 in s. 11.45 to verify that the distributions under this section
478 are expended as required in this section. If the Auditor General
479 determines that the distributions under this section are not
480 expended as required by this section, the Auditor General shall
481 notify the Department of Revenue, which may pursue recovery of
482 the funds under the laws and rules governing the assessment of
483 taxes.
484 (9)~~(8)~~ For new or retained professional sport franchise
485 facilities, an applicant is not qualified for certification
486 under this section if the franchise formed the basis for a
487 previous certification, unless the previous certification was
488 withdrawn by the facility or invalidated by the department or
489 the former Department of Commerce before any funds were
490 distributed under s. 212.20. This subsection does not disqualify
491 an applicant if the previous certification occurred between May
492 23, 1993, and May 25, 1993; however, any funds to be distributed
493 under s. 212.20 for the second certification must ~~shall~~ be

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

494 offset by the amount distributed to the previous certified
495 facility. Distribution of funds for the second certification may
496 ~~shall~~ not be made until all amounts payable for the first
497 certification are distributed.
498 Section 9. Paragraph (c) of subsection (1) of section
499 288.11621, Florida Statutes, is amended to read:
500 288.11621 Spring training baseball franchises.—
501 (1) DEFINITIONS.—As used in this section, the term:
502 (c) "Certified applicant" means a facility for a spring
503 training franchise that was certified before July 1, 2010, under
504 s. 288.1162 ~~288.1162(5)~~, Florida Statutes 2009, or a unit of
505 local government that is certified under this section.
506 Section 10. This act shall take effect July 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2
Meeting Date

Topic: SB 306 - INT'L BANKING AMENDMENT

Bill Number: SB 306 (if applicable)

Name: JAVIER BETANCOURT

Amendment Barcode: (if applicable)

Job Title: DEPUTY DIRECTOR

Address: 200 S. BISCAYNE BLVD. #2929
Street

MIAMI, FL 33131
City, State, Zip

Phone:

E-mail:

Speaking: ☐ For ☑ Against ☐ Information + the amendment

Representing: MIAMI DDA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

4 - 2 - 13
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Topic _____

Bill Number 306 (if applicable)

Name JESS McCARTY

Amendment Barcode _____ (if applicable)

Job Title ASS'T COUNTY ATTY

Address 111 NW 1ST ST 2810
Street

MIAMI FL 33128
City State Zip

Phone 305-979-7110

E-mail JMM2@MIAMIDADE.GOV

Speaking: [✓] For [ ] Against [ ] Information

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Econ. Development

Bill Number: 306 (if applicable)

Name: Mayor Oliver Gilbert

Amendment Barcode: (if applicable)

Job Title: Mayor - Miami Gardens

Address: 1515 NW 167 st
Street

Miami Gardens FL 33169
City State Zip

Phone: 305-622-8000

E-mail: ogilbert@miamigardens.gov

Speaking: [X] For [ ] Against [ ] Information

Representing: City of Miami Gardens

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/2013
Meeting Date

Topic _____

Bill Number 306 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: International Banking Facilities

Bill Number: SB 306 (if applicable)

Name: Daniel Tapia

Amendment Barcode: (if applicable)

Job Title: Sr. Manager, Governmental affairs

Address: 1601 Biscayne Blvd
Street

Miami, FL 33132
City, State, Zip

Phone: 305-484-6282

E-mail: dtapia@miamichamber.com

Speaking: [X] For [ ] Against [ ] Information

Representing: Greater Miami Chamber of Commerce

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Economic Development

Bill Number: SB 306 (if applicable)

Name: Shira Kastan

Amendment Barcode: (if applicable)

Job Title: Asst. Vice President of Gov't Affairs

Address: 1320 S. Dixie Hwy #325
Street

Coral Gables, FL 33146
City, State, Zip

Phone: 305-284-2618

E-mail: skastan@miami.edu

Speaking: [x] For [ ] Against [ ] Information

Representing: University of Miami

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Economic Development

Bill Number: 306 (if applicable)

Name: Mike Dee

Amendment Barcode: (if applicable)

Job Title: CEO - Miami Dolphins

Address: 347 Don Shula Dr
Street

Miami Gardens FL 33056
City State Zip

Phone: 305-943-8000

E-mail: mceo@dolphins.com

Speaking: [X] For [ ] Against [ ] Information

Representing: Sun Life Stadium

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Regulated Industries, *Vice Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on General Government
Children, Families, and Elder Affairs
Ethics and Elections
Gaming
Health Policy

SENATOR OSCAR BRAYNON II
Democratic Whip
36th District

March 27, 2013

RECEIVED
MAR 27 2013
SENATE
RULES COMMITTEE

Senator John Thrasher, Chair
Committee on Rules,
402 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Thrasher:

This letter is to request that CS/SB 306, relating to ***Economic Development*** be placed on the agenda of the next scheduled meeting. CS/SB 306 has passed its first three committees of reference.

CS/SB 306 Providing that tourist development tax revenues may also be used to pay the debt service on bonds that finance the renovation of a professional sports facility that is publicly owned, or that is on land publicly owned, which is publicly operated or operated by the owner of a professional sports franchise or other lessee; requiring a majority-plus-one vote of the membership of the board of county commissioners to levy a tax for renovation of a sports franchise facility after approval by a majority of the electors voting in a referendum to approve the proposal; repealing provisions relating to an income tax deduction for international banking facilities, etc.

Thank you for consideration of this request.

Sincerely,

Senator Braynon
District 36

cc. *John B. Phelps, Staff Director,*
Tamra Lyon, Committee Administrative Assistant

REPLY TO:
☐ 606 NW 183rd Street, Miami Gardens, Florida 33169 (305) 654-7150 FAX: (305) 654-7152
☐ 213 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5036

Senate's Website: *www.flsenate.gov*

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 1382

INTRODUCER: Community Affairs Committee; Ethics and Elections Committee; and Senator Latvala

SUBJECT: Campaign Finance

DATE: March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Roberts	EE	**Fav/CS**
2.	Anderson	Yeatman	CA	**Fav/CS**
3.	Fox	Phelps	RC	**Pre-meeting**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/CS/SB 1382 is a multipurpose campaign finance bill with the following major provisions:

- Eliminates committees of continuous existence (CCE) and provides for an orderly transition process through de-certification on September 30, 2013; however, the bill retains the $250 aggregate reporting limit for former CCEs reporting "multiple uniform contributions" (formerly "member dues") as a political committee (PC).
- Removes the "3-pack" exemption that allows PCs to run political advertisements jointly endorsing 3 or more candidates outside the scope of the contribution limits in Chapter 106.
- Provides for unlimited contributions to PCs supporting/opposing candidates, in lieu of the current $500/election limit.
- Returns individual candidate contribution limits per election from a flat $500 to a *tiered* system, similar to the one in place prior to 1992 ($3,000, statewide and Supreme Court; $2,000, DCA judges; $500, all others — including legislative).
- Authorizes *county* political party executive committees to contribute an aggregate of $50,000 to each *non-statewide* candidate, in addition to the aggregate limit of $50,000 for *all* other political party contributions.
- Limits political party turn backs from candidate surplus funds to $25,000.

- Increases the frequency of campaign finance reporting.
- Requires persons seeking a publicly-elected political party executive committee position *who receive contributions or make expenditures* to file *a single* campaign finance report on the Friday immediately preceding the primary election.
- Prohibits candidates who switch races from "double-dipping" contributors for maximum contributions in *both* races.
- Increases the amount certain successful candidates can contribute to an office account, and expands the permissible uses of such funds.
- Allows a successful state candidate to retain up to $20,000 of campaign funds for reelection.
- Incorporates the PC expenditure ban from CS/SB 2 into Chapter 106, by limiting the permissible type of expenditures and authorizing a personal treble civil penalty for violations.
- Removes the requirement for petition candidates to pay a deferred 1 percent election assessment before disposing of surplus funds, transferring funds to an office account, or rolling over funds for reelection.
- Reinstates sponsorship identification disclaimers for campaign fund raiser tickets and advertising.
- Modifies the titling of campaign depositories and associated checks and debit cards.

This bill creates numbered and unnumbered sections, republishes sections, makes technical and cross-referencing changes to sections, repeals s. 106.04, and substantively amends the following sections of the Florida Statutes: 106.011, 106.021, 106.025, 106.07, 106.0703, 106.08, 106.11, 106.141, 106.29.

II. Present Situation:

The present situation is discussed below in **Effect of Proposed Changes** in this bill analysis.

III. Effect of Proposed Changes:

Elimination of Committees of Continuous Existence (CCEs)

Current Situation

CCEs were created in Florida law in 1973.[1] A CCE is a group, organization, association, or other such entity that is involved in making contributions to candidates, PCs, electioneering communications organizations (ECOs), other CCEs, or political parties.[2]

A CCE must register with the Division of Elections and provide a copy of its bylaws and membership dues structure. It must report contributions and expenditures on the same schedule as a comparable political committee, though there are some differences in how certain items are reported.[3] A CCE is statutorily prohibited from making independent expenditures or

[1] Ch. 73-128, § 6, LAWS OF FLA.
[2] § 106.04(1), F.S.
[3] For example, CCEs are not required to provide a detailed list of members paying dues so long as each member pays no more than $250 per calendar year; rather, CCEs are only required to report the total amount of dues collected and the total number of dues-paying members. § 106.04(4)(c)1., F.S.

electioneering communications, though it may contribute to an electioneering communications organization.

CCEs amass funds through dues collected from a membership base, which, in turn enables a CCE to collect additional contributions without limitation as to individual amount, *provided at least 25 percent of the CCE's overall income is attributable to member dues*. Thus, the more money a CCE receives in member dues the more it can collect in non-member contributions, thereby enhancing its so-called political "clout."

Due to its membership structure, CCEs have historically been the permanent, ongoing campaign finance vehicle of choice for *groups* and *organizations*. In the early to mid 2000s, Florida saw the emergence of "elected officer" CCEs, CCEs created and controlled by *individual* public officials or legislators. Public officers establishing these CCEs have reportedly used funds for a variety of purposes, including funding future legislative leadership battles and, in some of the worst-reported recent cases, wining and dining colleagues on a regular basis or paying for personal expenses of the individual legislator and/or friends, family, and colleagues (sometimes colloquially referred to as "living out of your CCE").

Effect of Proposed Changes **(Sections 1-2)**

CS/CS/SB 1382 eliminates CCEs, and provides for an orderly transition process.

As of August 1, 2013, CCEs are no longer allowed to accept contributions; on September 30, 2013, all CCE certifications are revoked by operation of law. Before revocation, CCEs must disburse all funds as currently authorized by law. In order to provide sufficient notice to CCEs in advance of revocation, the Division of Elections is required to notify CCEs of the new laws by July 15, 2013. Even though CCE certifications are revoked on September 30, 2013, CCEs must still file required campaign finance reports, including the quarterly report due by October 10 for the third quarter of 2013. PCs or ECOs established, maintained, or controlled by the same person or group as the de-certified CCE that also received funds from the CCE are liable for any ch. 106, F.S., penalty or fine incurred or payable by the defunct CCE after September 30; in the absence of any such organization, the officers of the former CCE are jointly and severally liable.

The following table describes the current law and the effect of the bill's proposed changes:

Committees of Continuous Existence		
	Current Law[4]	**Effect of Proposed Changes**
Political Purpose	To make contributions to candidates, political committees, political parties, CCEs, or ECOs.[5]	This bill
Limits on Contributions ***to*** a CCE	There are no limits, *provided* at least 25 percent of the CCE's income, excluding interest, comes from member dues.	

[4] §106.04, F.S.
[5] CCE-to-CCE contributions and contributions from CCEs to ECOs are authorized pursuant to s. 106.011(3)(b), F.S., which defines the term "contribution" to include transfers of funds between these entities.

Limits on Contributions ***made by*** a CCE	•$500, to each candidate or political committee supporting *candidates*.[6] •Unlimited, for contributions to ECOs, CCEs, or political parties. •Unlimited, for contributions to political committees supporting or opposing ballot *issues*, *provided* such contributions aggregate to no more than 25 percent of the CCE's annual income for the prior year.[7]	eliminates CCEs.
Permissible and Prohibited Activities	•May contribute to candidates, ECOs, CCEs, political committees, and political parties. •May not make direct electioneering communications or independent expenditures. •In order to directly support or oppose an issue, a CCE must register as a political committee.	

Frequency of Committee Campaign Finance Reports

Present Situation

Pursuant to s. 106.011(16), F.S., individuals running for a political party executive committee position are specifically excluded from the definition of the word "candidate" for Chapter 106 purposes, and as such are not required to file campaign finance reports.

PCs, ECOs, CCEs, and most other candidates are required to file periodic campaign finance reports consisting principally of contributions received and expenditures made. CCEs, however, are not required to provide a detailed list of members paying dues so long as each member pays no more than $250 in dues per calendar year; rather, CCEs are only required to report the total amount of dues collected and the total number of dues-paying members.[8]

Except for the third calendar quarter immediately preceding a general election, reports must be filed on the 10th day following the end of *each calendar quarter* from the time a campaign treasurer is appointed.[9] Quarterly reports must include all contributions received and expenditures made during the quarter. In an election year, reports must also be filed every other week on the 32nd, 18th, and 4th days immediately preceding the primary and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election. Any statewide candidate who has requested to receive contributions pursuant to the Florida Election Campaign Financing Act or any statewide candidate in a race with a candidate who has requested to receive contributions must file weekly reports on the 4th, 11th, 18th, 25th, and 32nd days prior to the primary election, and on the 4th, 11th, 18th, 25th, 32nd, 39th, 46th, and 53rd days prior to the general election. In addition, there are different filing requirements during special elections.

State and county executive committees of a political party and Affiliated Party Committees (APCs) are *only* required to file periodic reports of contributions received and expenditures made on a quarterly basis and on the Friday (4th day) immediately preceding a special primary, primary, special general or general election.[10]

Although all final campaign finance reports are due on the Friday (4th day) immediately preceding an election, ECOs and CCEs can raise contributions and spend those contributions

[6] § 106.08(1), F.S.
[7] § 106.04(1)(b), F.S.
[8] § 106.04(4)(c)1., F.S.
[9] §§ 106.04(4)(b)1.; 106.07(1); 106.0703(1), F.S. Quarterly reports are due on the 10th day after the quarter, unless the 10th day is a Saturday, Sunday, or legal holiday, in which case the report is due on the next business day.
[10] § 106.29(1), F.S.

right up to and including election day; only candidates,[11] political committees,[12] and political parties[13] are prohibited from obligating or expending contributions raised in the 5 days before an election for *that* upcoming election.[14]

Reports are filed either with the Division of Elections or a local filing officer, typically the county Supervisor of Elections, as follows:

- *Candidates*: Reports are filed with the officer before whom the candidate qualifies. Candidates filing reports with the Division of Elections do so through the Electronic Filing System.
- *Political Committees*: Reports are electronically filed with the Division of Elections if the PC supports or opposes statewide, legislative, or multicounty candidates or issues; reports are filed with the county supervisor of elections if the PC supports or opposes solely candidates or issues in a countywide or less than a countywide election, or if a municipality contracts with the supervisor to run the city's elections (common).
- *Committees of Continuous Existence*: Reports are filed electronically with the Division of Elections.
- *Electioneering Communications Organizations*: Reports are electronically filed with the Division of Elections if the ECO's communications involve statewide, legislative, or multicounty candidates; reports are filed with the county supervisor of elections if the ECO's communications involve solely candidates or issues in a countywide or less than a countywide election, or if a municipality contracts with the supervisor to run the city's elections (common).
- *Political Party Executive Committees/APCs*: *State* political party executive committees and APC must file electronically with the Division of Elections; *county* political party executive committees file with the county Supervisor of Elections.

Reports filed with the Division of Elections are submitted electronically, while reports filed at the local level are typically filed on paper forms.

Effect of Proposed Changes **(Sections 9-11, 16)**

For statewide candidates and committees that file electronically with the Division of Elections (state political party executive committees and APCs, certain PCs and ECOs), the bill mandates:

- ***Monthly*** campaign finance reports until the 60th day before the primary (7 days after qualifying ends in June for most non-federal candidates);
- ***Weekly*** reports beginning on the 60th day before the primary, with the last weekly report due on the 11th day before the general election; and,

[11] § 106.08(3)(a), F.S.
[12] § 106.08(4), F.S.
[13] § 106.29(4), F.S.
[14] Candidates are required to return the contribution; political committees and political parties can retain the contribution for use in future elections. §§ 106.08(3)(a), (4); 106.29(4), F.S. *But see*, *Worley v. Detzner*, No.4:10-cv-00423-RH-CAS, at pp. 14-17 (N.D. Fla., July 2, 2012) (enjoining on First Amendment grounds the statutory prohibition barring a political committee from using contributions received in the last 5 days before an election provided, *before the contribution is spent, the committee fully discloses the contribution in an electronic filing with the Division*).

- ***Daily*** reports beginning on the 10th day before the general election, with the last report due on the ***4th day before*** the general election (last report for ECOs is due on the *day before* the general election).

For all other candidates reporting pursuant to Chapter 106 and local committees (county political party executive committees and PCs/ ECOs that file reports with a supervisor of elections or municipal clerk), the bill requires:

- ***Monthly*** campaign finance reports until the 60th day before the primary (7 days after qualifying ends in June for most non-federal candidates); and,
- ***Bi-Weekly*** reports every other Friday beginning on the 60th day before the primary through the Friday (4th day) before the general election, with an additional report due on the 25th and 11th days before the primary and general election.

For persons seeking a publicly-elected political party executive committee position who receive contributions or make expenditures, the bill requires the filing of a single campaign finance report on the Friday immediately preceding the primary election. The reporting scheme is patterned on local candidate reporting pursuant to s. 106.07, F.S., with the attendant criminal penalties for willfully reporting incorrect, false, or incomplete information as well as administrative fines for late filings.

The bill provides for aggregate reporting by PCs of uniform, multiple contributions from the same person totaling less than $250 annually that are collected by PC "affiliated sponsors," mirroring in large measure the current $250 aggregate reporting exemption for CCE dues. The PC, however, must report the identities of such systematic contributors annually.

Finally, the bill requires the Division of Elections to submit to the Florida Legislature, by December 1, 2013, a proposal for creating a mandatory electronic filing system for *state and local campaign filings* required under the Florida Election Code. **(Section 17)**

Contribution Limits

Present Situation

Candidate and Political Committees

In 1991, the Legislature significantly reduced most of Florida's candidate and political committee contribution limits to the current level: **$500 per election/$1,000 per election *cycle*,**[15] regardless of the office sought. [16] The 1991 Act barred PCs, CCEs, and adult individuals from contributing more than $500/election to any candidate or to a political committee supporting or opposing candidates; contributions from unemancipated minors under 18 years of age were capped at $100.[17]

[15] A primary election and general election are considered separate elections for purposes of the $500 contribution limits, unless a candidate is unopposed. § 106.08(1)(c), F.S.
[16] Ch. 91-107, § 11, at 886-87, LAWS OF FLA.
[17] *Id.* In August 2012, a federal district judge in south Florida preliminarily enjoined the Florida Elections Commission from enforcing the $100 contribution limit on minors, based on a substantial likelihood that it unconstitutionally curtailed First

Before the Act took effect in 1992, Florida followed a "tiered" approach; contribution limits for each election increased commensurate with the stature and scope of the office sought. An individual or group could contribute:

1. Up to ***$3,000*** to candidates for statewide office and to Supreme Court justices in a retention election;
2. Up to ***$2,000*** to district court of appeal judges in a retention election; and,
3. Up to ***$1,000*** to a PC supporting or opposing candidates, and to candidates for all other elected offices:
    a. State legislators and multicounty office.
    b. Circuit and county court judge.
    c. Countywide or less than countywide office.

Political Party Contributions to Non-Statewide Candidates

Legislative and other non-statewide candidates may accept an aggregate of $50,000 from all political party sources, including national, state, or county committees, including subordinate committees, and APCs.[18] In addition, political party committees can also provide candidates with unlimited polling services, research services, campaign staff, professional consulting services, and telephone calls (so-called "nonallocables").[19]

Effect of Proposed Changes **(Section 13)**

Candidate and Political Committees

The bill re-adopts Florida's retro, *tiered*-limits approach to individual contributions to *candidates*, except that the bottom tier remains at the current $500/election instead of $1,000/election as existed pre-1992; the constitutionally-suspect $100 contribution limit applicable to minors is repealed.[20]

The *candidate* limits in the bill are as follows:

1. Up to ***$3,000*** to candidates for statewide office and to Supreme Court justices in a retention election;
2. Up to ***$2,000*** to district court of appeal judges in a retention election; and,
3. Up to ***$500*** to candidates for all other elected offices:
    a. State legislators and multicounty office.
    b. Circuit and county court judge.
    c. Countywide or less than countywide office.

Amendment rights of free speech and association. *Towbin v. Antonacci*, Case No. 12-80069-CV-WILLIAMS (S.D. Fla., Aug 6, 2012).

[18] § 106.08(2)(a), F.S.

[19] § 106.08(2)(b), F.S.

[20] *See supra* note 17 and accompanying text (discussing constitutionality of unemancipated minor contribution limit).

Further, the bill provides for *unlimited* contributions to PCs supporting or opposing candidates instead of the current $500/election.

Political Party Contributions to Non-Statewide Candidates

CS/CS/SB 1382 allows *county* political party committees to contribute an aggregate of $50,000 to non-statewide candidates, in addition to the current $50,000 aggregate which *all* other political party committees may collectively contribute.

The table below summarizes Florida's current campaign contribution limits and the effect of the bill's proposed changes:

CAMPAIGN CONTRIBUTION LIMITS IN FLORIDA[21]			
	Current Limits		**Proposed Limits**
Candidates	From any person, PC, or CCE.	$500/election	• Statewide or supreme court candidates: $3,000/election. • DCA candidates: $2,000/election. • Legislative and other candidates: *No change.* No CCE contributions, because CCEs are eliminated by this bill.
	From PPs and APCs to a statewide candidate	$250,000, aggregate from all	*No change*.
	From PPs and APCs to any other candidate	$50,000, aggregate from all	$50,000 aggregate from a *county* PP executive committee; $50,000 aggregate from all *other* party committees and APCs.
Political Committees (PCs)	To a PC supporting or opposing *issues only*	No limit	*No change.*
	To a PC *supporting or opposing candidate(s)*	$500/election	No limit.
Electioneering Communications Organizations (ECOs)	No limit on any contributions to an ECO.		*No change.*
Committees of Continuous Existence (CCEs)	No limit on any contributions to a CCE, *provided* at least 25 percent of the CCE's income comes from membership dues.		This bill eliminates CCEs.
Political Party Executive Committee (PP) or Affiliated Party Committee (APC)	No limit on contributions to a PP.		*No change.*

[21] § 106.08, F.S.

Political Committee Depository and Expenditures

Present Situation

Political committees must set-up and make expenditures exclusively from a primary campaign depository.[22] The depository must be designated specifically as "...(name of the candidate or committee.)... Campaign Account." [23] Checks and debit cards for expenditures from the depository must contain the statement "...(name of candidate or political committee.)... Campaign Account."[24]

An "expenditure" is defined as a:

> [P]urchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, or gift of money or anything of value *made for the purpose of influencing the results of an election* or *making an electioneering communication*.[25] (emphasis added)

Effect of Proposed Changes **(Section 8, 14)**

CS/CS/SB 1382 removes the specific-wording requirements for the titles of campaign depositories along with the words that must appear on checks and debit cards, requiring only the name of the candidate or committee.

The bill further limits political committee expenditures to those that are:

> [P]rimarily related to raising or making a contribution, influencing the results of an election, making an electioneering communication, or other political activity authorized by this chapter [106].

Persons making expenditures in violation of this provision are subject to the personal treble civil penalty provided in s. 106.19(2), F.S.

This provision of the bill is similar to the PC/CCE total gift prohibition in CS/SB 2 (Ethics), though it only reaches the person *making* the expenditure on behalf of the CCE.

Race Switching

Present Situation

Florida law provides that any candidate who changes the office that he or she is seeking must offer in writing to return funds received *pro rata* to contributors, and upon request of the contributor must do so; the candidate may use contributions that are not requested to be returned

[22] §§ 106.021(1), 106.11(1)(a), F.S.
[23] § 106.05, F.S.
[24] § 106.11(1)(b)1., (2)(a)2., F.S.
[25] § 106.011(4)(a), F.S.

for the newly-designated office.[26] A candidate may receive up to $500 per non-political-party contributor, per election.[27]

The current statute allows a candidate to "double-dip" certain contributors, collecting the maximum $500 contribution for the original race, using that contribution (or part thereof) for advertising to get the candidate's name out, rolling over any *pro rata* amount not requested to be returned, and then tapping the *same* contributor for up to $1,000 in *additional* contributions ($500 for the primary, $500 for the general election) for the newly-designated office — thereby, arguably, circumventing the $500/election limit in spirit if not in actual practice.

Effect of Proposed Changes **(Section 4)**

The bill provides that the total amount of the contribution for the original office counts toward the contribution limits for the newly-designated office. For example, if a candidate were to raise $500 from a contributor for a House seat and subsequently qualify for a contested Senate seat, the $500 contributed in the House race would port over to the Senate race and allow the candidate to collect only an additional $500 from *that* contributor for the Senate run (total of $1,000 for both elections).

Further, because the bill adopts a variable, ***tiered*** contribution limit system for candidates ($3,000/$2,000/$500 depending on the office sought), the bill provides that a candidate moving from a race with a higher contribution limit to one with a lower limit may only "roll down" funds that have not been requested to be returned *up to the maximum of the lower contribution limit*, and *must* dispose of excess contributions as if they were surplus funds.[28]

Surplus Campaign Funds

Present Situation

Sections 106.11(5) and 106.141, F.S., govern the disposal of surplus campaign funds. Those sections require a candidate to dispose of all funds remaining in his or her campaign account and file a report within 90 days after the candidate is elected or eliminated, becomes unopposed, or withdraws from the election. A candidate may dispose of surplus funds in any of the following ways, or any combination thereof:[29]

1. Purchase "thank you" advertising for up to 75 days;
2. Pay for items which were obligated before the candidate withdrew, became unopposed, or was eliminated or elected;
3. Make expenditures to close the campaign office and prepare final campaign reports;
4. Return funds on a *pro rata* basis to each contributor;

[26] § 106.021(1)(a), F.S.
[27] § 106.08(1), F.S.
[28] A candidate may dispose of excess contributions by: paying for items obligated before the candidate switched offices; paying for necessary expenditures to close down the campaign office and prepare final campaign reports; returning contributions *pro rata* to contributors; donating to a charity or 501(c)(3) organization; or, depositing in the state's General Revenue Fund (state candidates) or the general revenue fund of the applicable political subdivision (local candidates).
[29] §§ 106.11(5); 106.141(4)(a), F.S.

5. Donate funds to s. 501(c)(3) charitable organizations;
6. Contribute *unlimited* funds to an affiliated party committee or the candidate's political party ("turn backs");[30]
7. For statewide candidates, give funds to the state for use in the Election Campaign Financing Trust Fund or the General Revenue Fund;
8. For candidates for office in a political subdivision, give funds to the political subdivision for deposit in the general fund; or,
9. Transfer funds to an office account (see *infra*, section heading ***"Office Accounts"***).[31]

Florida law does not allow successful candidates to "roll over" campaign funds for reelection from one election to the next.

Prior to making certain dispositions or transferring funds to an office account, any candidate who filed an oath stating that he or she was unable to pay the election assessment[32] or fee for verification of petition signatures without imposing an undue burden on his or her personal resources, or who qualified by the petition process and was not required to pay an election assessment, is required to reimburse the state or local governmental entity, whichever is applicable, for the waived assessment or fee or both.[33]

Effect of Proposed Changes **(Section 15)**

Political Party Turn Backs

CS/CS/SB 1382 limits political party turn backs from surplus campaign funds to $25,000 per candidate.

"Roll Over" Campaign Funds

In addition to the current methods of disposing of surplus campaign funds, the bill allows a winning candidate for state office to retain up to $20,000 in the candidate's campaign account (or transfer it to another interest-bearing account) for use in the candidate's reelection to the same office,[34] *provided* the candidate has paid any outstanding amounts owed for petition signature verification or any unpaid political party assessment.[35] Candidates who do not qualify for

[30] Political party turn backs from surplus funds were first authorized in 1982; they remained *unlimited* until January 1, 1999, when the Legislature adopted a $10,000 maximum turn back as part of an omnibus 1997 election reform bill. Ch. 97-13, § 16, LAWS OF FLA.; Ch 82-404, § 1, LAWS OF FLA. In 2004, the limit expanded to $30,000 *for Senate candidates only*. Ch. 04-252, § 20, LAWS OF FLA. In 2011, the Legislature returned to *unlimited* turn backs for the 2012 election cycle and beyond. Ch. 11-40, § 65, LAWS OF FLA.

[31] Section 106.141(5), F.S., permits a candidate elected to office to transfer surplus campaign funds to an office account (after certain requirements are met), which may be used for "legitimate expenses in connection with the candidate's public office." The amount that may be transferred to an office account varies depending upon the office to which the candidate is elected.

[32] The election assessment is 1 percent of the annual salary of the office sought, and is ultimately deposited into the Florida Elections Commission Trust Fund. § 99.092(1), F.S.

[33] § 106.141(6), F.S.

[34] To deal with candidates running to represent different districts, and changing district numbers associated with reapportionment, the term "same office" with respect to a *legislative* office means an office in the same legislative *body*, irrespective of district number, designation, or geographic boundary.

[35] These conditions would only impact candidates who qualified by the petition method; candidates paying the qualifying fee would have no preconditions to rolling over funds.

reelection to the same office must dispose of the retained funds within 90 days pursuant to the surplus funds' statutes.

Election Assessment Fee

The bill eliminates the requirement that candidates who are excused from paying an election assessment *at the time of qualifying* because they qualified by petition, or because they claimed a financial hardship, pay back the election assessment before making certain dispositions of surplus funds, transferring funds to an office account, or, as newly-authorized in the bill, rolling over up to $20,000 for reelection.

Office Accounts

Present Situation

A successful or unopposed candidate may transfer surplus funds from his or her campaign account to an office account; the maximum amount that can be transferred depends on the elected office (see chart in Effect of Proposed Changes section below, detailing current amounts).[36]

Office account funds must be separate from any personal or other account, and can only be used for "legitimate expenses in connection with the candidate's public office." Some specific examples of such "legitimate expenses" are detailed in the law:

- Travel expenses incurred by the officer or a staff member;
- Personal taxes payable on office account funds by the candidate or elected public official;
- Expenses incurred in the operation of the elected public official's office, including the employment of additional staff.

Division of Elections Opinion 78-50 offers only minimal guidance as to what activities or expenses are permissible or "legitimate:"[37]

> Provided the activity or responsibility is something which is generated due to and with regard to a person's public position, rather than something personal in nature, expenses associated with that activity or responsibility could be paid with these retained funds.

[36] § 106.141(5), F.S.

[37] Given the dearth of specific guidance from the executive and legislative branches, the Senate has developed a list of other permissible office account expenditures. Florida Senate, *Senate Administrative Policies and Procedures* (Dec. 2012) (Senate Policy 2.05, Separate Office Account). The House of Representatives addresses the issue in multiple policies, and handles member questions on an *ad hoc* basis through written decisions of the General Counsel. *See e.g.*, House of Representatives, *Administrative Policy Manual* (November 2012) (Policy Nos. 1.3, 2.3, 2.7, 2.15,2.19, 3.2, 3.3, 3.7); House Legislative Conduct Opinions 00-02, 02-05 , 01-10, 00-02, 97-02, 95-12, *available at*: http://www.myfloridahouse.gov/FileStores/Adhoc/LegislativeConduct/LegislativeConduct.pdf (last visited Feb. 20, 2012).

Effect of Proposed Changes **(Section 15)**

The following chart summarizes the current law and the bill's changes with respect to the amount that certain successful candidates can retain in an office account:

Office Accounts, Maximum Amounts		
Public Officer Candidates	**Current Law[38]**	**Effect of Proposed Changes**
Statewide Officers[39]	$20,000	$50,000
Multicounty Office	$5,000	$10,000
Legislative	$5,000, multiplied by the number of years in the term of office for which elected	$10,000, multiplied by the number of years in the term of office for which elected
County office, or for a candidate in any election conducted on less than a countywide basis	$2,500, multiplied by the number of years in the term of office for which elected	$5,000, multiplied by the number of years in the term of office for which elected
Supreme Court Justice	$6,000	*No change*.
District Court of Appeal Judge	$3,000	*No change.*
Circuit/County Court Judge	$1,500	$3,000

Further, the bill expands the statutory list of "legitimate expenses" for which office funds can be used, namely:

- Professional services provided by a certified public accountant or attorney for preparation of an elected public official's annual financial disclosure filing;[40]
- Costs associated with holiday cards and constituent newsletters that don't constitute campaign literature;
- Fees or dues payable to religious, civic, or charitable organizations of which the officer is a member;
- Modestly-priced items such as flowers, greeting cards, or personal notes given in connection with a constituent's special life event — like the birth of a child, graduation, wedding, or funeral; and,
- Personal expenses incurred by the official in connection with attending a constituent meeting or event where public policy is discussed, *provided* such meetings or events are limited to no more than once a week.

Campaign Fund Raiser Disclaimers

Present Situation

Prior to 2011, two disclaimers were required on fund raiser tickets and advertising:

[38] §106.141(5), F.S.
[39] Governor and Lieutenant Governor considered separate candidates. Section 106.141(5)(a), F.S.
[40] This new authorization is tied to provisions in CS/SB 2 (Ethics) by Rules, Ethics and Elections and Senator Latvala, creating a limited "safe harbor" for elected public officers who use a certified public accountant or lawyer to prepare and file their financial disclosure forms.

> Any tickets or advertising for such a campaign fund raiser shall contain the following statement: "The purchase of a ticket for, or a contribution to, the campaign fund raiser is a contribution to the campaign of ...(name of the candidate for whose benefit the campaign fund raiser is held)...." Such tickets or advertising shall also comply with other provisions of this chapter relating to political advertising.[41]

Both disclaimers appear to have been inadvertently repealed in 2011, and a provision erroneously added specifically *exempting* campaign fund raiser tickets and advertising from the general political advertisement disclaimer requirements in s. 106.143, F.S.;[42] there are currently no sponsorship disclaimer requirements for campaign fund raiser materials.

Effect of Proposed Changes **(Sections 6)**

The bill reinstates the requirement that campaign fund raiser tickets and advertising include the general sponsorship disclaimer for political advertisements in s. 106.143, F.S.

Effective Date (Section 37)

Except as otherwise expressly provided, the act takes effect November 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The increased frequency of campaign finance reporting may result in additional preparation costs for candidates seeking public office and private entities operating as PCs or ECOs, as well as for political party executive committees.

[41] § 106.025(1)(c), F.S. (2010)
[42] Ch. 2011-40, § 56, LAWS OF FLA.

Also, reducing political party turn backs to $25,000 per candidate will likely force parties to seek those lost funds elsewhere.

C. Government Sector Impact:

1. Revenue

Florida Elections Commission: Eliminating the current requirement that petition candidates and others pay back the 1 percent election assessment prior to disposing of surplus funds will result in lost revenue to the Florida Elections Commission. The amount of lost revenue will vary depending primarily on the number of, and offices sought by, candidates that qualify by the petition method.

2. Expenditures

Department of State: According to the Department of State, under the *prior* committee substitute, the increase in the number of campaign finance reports filed with the Division of Elections would have increased their workload, requiring two FTEs and a recurring fiscal impact of $85,000. The Department asserted that, "[t]he increase in reports would cause an increase in fail to file letters, fine letters, incomplete report letters and Election Commission referrals. All of these documents must be scanned and posted to the web. One entry level FTE would be required to handle incomplete letters and Election Commission referrals. One additional FTE would be required to handle fail to file letters, scanning and posting the letters to the web and to handle the increased traffic on the help desk answering phone calls. In total if you take an average salary of $30,000 for each FTE plus benefits would total $85,000."

The current committee substitute reduces the number of reports required of most non-statewide candidates by about 25 percent. It is unclear at this time what impact this reduction will have, if any, on the Department's fiscal analysis.

On another note, the Department intends to produce the report on the feasibility of a statewide database using current resources, so production of the report should not have a fiscal impact on the department.

Florida Elections Commission: According to the Florida Elections Commission (Commission), under the *prior* committee substitute, the increase in campaign finance reports filed would have increased the number of cases against candidates, political committees, and electioneering communications organizations that fail to file reports. The Commission also expected the increase in reports would increase the number of cases appealing fines imposed for late filing of reports. According to the Commission, investigating and preparing these cases for presentation to the Commission would have required one additional FTE at a salary of $33,000, plus benefits for a total cost of $42,900.

The current committee substitute reduces the number of reports required of most non-statewide candidates and local PCs/ECOs by about 25 percent. It is unclear at this time what impact this reduction will have, if any, on the Commission's fiscal analysis.

Supervisors of Elections (and some municipal clerks): The Supervisors of Elections and municipal clerks will receive and process more campaign finance reports, but the fiscal impact is indeterminate at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Community Affairs on March 20, 2013:
The committee substitute materially differs from the prior committee substitute in that it: removes the contribution/expenditure exemption for PCs running "3-pack" joint endorsement political advertisements; corrects a timing glitch to allow CCEs to transfer unlimited funds to PCs upon the bill becoming law, to allow for transfers of funds during the CCE de-certification transition period; reduces the number of campaign finance reports most candidates, county political party committees, and local PCs/ECOs must file; and, reinstates a Chapter 106 exemption for persons seeking political party executive committee office, while requiring such persons seeking publicly-elected office who raise contributions or make expenditures to file a single report immediately preceding the primary.

CS by Ethics and Elections on March 11, 2013:
The committee substitute materially differs from the original bill in that it: reduces the number of candidates that must file daily campaign finance reports immediately preceding the general election; incorporates the PC expenditure ban in CS/SB 2 into Chapter 106, F.S., by limiting the permissible type of expenditures; modifies the titling of campaign depositories and associated checks and debit cards; authorizes payments to lawyers from office account funds for preparation of financial disclosure forms; removes the requirement for petition candidates to pay back the 1 percent election assessment before disposing of surplus funds; and reinstates political advertising sponsorship disclaimers for campaign fund raiser tickets and advertising.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

454416

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Rules (Latvala) recommended the following:

Senate Amendment

Delete lines 777 - 783
and insert:
of mailing in a timely manner. Reports must ~~shall~~ contain information on ~~of~~ all previously unreported contributions received and expenditures made as of the preceding Friday, except that the final weekly or biweekly report ~~filed on the Friday~~ immediately preceding the election and each daily report must ~~shall~~ contain information on ~~of~~ all previously unreported contributions received and expenditures made as of the day preceding that designated due date. All such reports are

245104

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Rules (Latvala) recommended the following:

Senate Amendment

Delete lines 1223 - 1244
and insert:
(2)(a) Except as provided in s. 106.0705, the reports required of an electioneering communications organization shall be filed with the filing officer not later than 5 p.m. of the day designated. However, any report postmarked by the United States Postal Service no later than midnight of the day designated is ~~shall be~~ deemed to have been filed in a timely manner. Any report received by the filing officer within 5 days after the designated due date that was delivered by the United States Postal Service is ~~shall be~~ deemed timely filed unless it

245104

14 has a postmark that indicates that the report was mailed after
15 the designated due date. A certificate of mailing obtained from
16 and dated by the United States Postal Service at the time of
17 mailing, or a receipt from an established courier company, which
18 bears a date on or before the date on which the report is due,
19 suffices as ~~shall be~~ proof of mailing in a timely manner.
20 Reports must ~~shall~~ contain information on ~~of~~ all previously
21 unreported contributions received and expenditures made as of
22 the preceding Friday, except that the final weekly or biweekly
23 report ~~filed on the Friday~~ immediately preceding the election
24 and each daily report must ~~shall~~ contain information on ~~of~~ all
25 previously unreported contributions received and expenditures
26 made as of the day preceding the designated due date. All such
27 reports are ~~shall be~~ open to public inspection.

718076

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Rules (Latvala) recommended the following:

1 **Senate Amendment**
2
3 Delete line 2216
4 and insert:
5 campaign filings required by s. 106.07, s. 106.0703, s. 106.141,
6 or s.

By the Committees on Community Affairs; and Ethics and Elections; and Senator Latvala

578-02814-13 20131382c2

A bill to be entitled

An act relating to campaign finance; repealing s. 106.04, F.S., relating to the certification and political activities of committees of continuous existence; prohibiting a committee of continuous existence from accepting a contribution after a certain date; providing for revocation of the certification of each committee of continuous existence on a certain date; requiring the Division of Elections to provide certain notifications to committees of continuous existence; providing procedures for disposition of funds and closing of the committee account; providing penalties; providing for the applicability of penalties incurred by the committee of continuous existence; authorizing a committee of continuous existence to make unlimited contributions to a political committee; amending and reordering s. 106.011, F.S., relating to definitions applicable to provisions governing campaign financing; deleting the definition of the term "committee of continuous existence" to conform to changes made by the act; revising the definition of the term "election" to include the selection of members of political party executive committees; conforming cross-references; amending s. 106.021, F.S.; providing requirements and restrictions on the use of contributions received before a candidate changes his or her candidacy to a different office; prohibiting a political committee from making an expenditure for the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

578-02814-13 20131382c2

purpose of jointly endorsing three or more candidates outside the scope of the requirements of ch. 106, F.S.; amending s. 106.022, F.S.; conforming a provision to changes made by the act; amending s. 106.025, F.S.; providing that tickets or advertising for a campaign fundraiser must comply with the requirements of political advertisements circulated before an election; amending s. 106.03, F.S.; conforming provisions and cross-references to changes made by the act; amending s. 106.05, F.S.; revising the information that is required to appear on a bank account for deposit of funds; reenacting and amending s. 106.07, F.S., relating to reports by campaign treasurers; revising reporting requirements for candidates and political committees; conforming a cross-reference; creating s. 106.0702, F.S.; requiring certain individuals seeking a publicly-elected position on a political party executive committee to file a report with the supervisor of elections before the primary election; providing filing and notice requirements; specifying the contents of the report; requiring the supervisor to make a specified form available to a reporting individual; requiring the reporting individual to certify to the correctness of the report; providing criminal penalties for a reporting individual who willfully files an incorrect, false, or incomplete report; providing for a fine under specified conditions; authorizing a reporting individual to appeal a fine to the Florida Elections

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 Commission; requiring the supervisor to notify the
60 commission of specified violations; amending s.
61 106.0703, F.S.; revising reporting requirements for
62 electioneering communications organizations;
63 reenacting and amending s. 106.0705, F.S., relating to
64 the electronic filing of campaign treasurer's reports;
65 conforming provisions and cross-references to changes
66 made by the act; amending s. 106.08, F.S.; increasing
67 the limitations on contributions made to certain
68 candidates and political committees; removing a
69 limitation on contributions made by specified minors;
70 revising limitations on contributions to non-statewide
71 candidates from specified political party committees;
72 conforming provisions and cross-references to changes
73 made by the act; reenacting and amending s. 106.11,
74 F.S.; specifying restrictions on expenditures by
75 political committees; providing a penalty; revising
76 the information that is required to appear on bank
77 account checks of candidates or political committees;
78 revising information used to determine when debit
79 cards are considered bank checks; amending s. 106.141,
80 F.S.; prohibiting a candidate from giving more than a
81 specified amount of surplus funds to an affiliated
82 party committee or political party; increasing the
83 amount of funds that certain candidates may transfer
84 to an office account; specifying permissible expenses
85 with office account funds; defining the term "same
86 office"; modifying requirements and conditions for
87 disposing of and transferring surplus funds;

88 authorizing certain candidates to retain a specified
89 amount of funds for reelection to the same office;
90 establishing requirements and conditions for retained
91 funds; providing procedures for disposition of
92 retained funds in certain circumstances; making
93 changes to conform to the act; reenacting and amending
94 s. 106.29, F.S.; revising reporting requirements for
95 political parties and affiliated party committees;
96 requiring the Division of Elections to submit a
97 proposal for a mandatory statewide electronic filing
98 system for certain state and local candidates to the
99 Legislature by a specified date; amending ss. 101.62,
100 102.031, 106.087, 106.12, 106.147, 106.17, 106.23,
101 106.265, 106.27, 106.32, 106.33, 111.075, 112.3148,
102 112.3149, 1004.28, 1004.70, and 1004.71, F.S.;
103 conforming provisions and cross-references to changes
104 made by the act; reenacting s. 106.075(2), F.S.,
105 relating to contributions made to pay back campaign
106 loans incurred, to incorporate the amendment made to
107 s. 106.08, F.S., in a reference thereto; reenacting s.
108 106.19, F.S., relating to criminal and enhanced civil
109 penalties for certain campaign finance violations, to
110 incorporate the amendments made to ss. 106.08 and
111 106.11, F.S., in references thereto; providing an
112 effective date.
113
114 Be It Enacted by the Legislature of the State of Florida:
115
116 Section 1. Section 106.04, Florida Statutes, is repealed.

117 Section 2. (1) Effective August 1, 2013, a committee of
118 continuous existence may not accept a contribution as defined in
119 s. 106.011, Florida Statutes. By July 15, 2013, the Division of
120 Elections of the Department of State shall notify each committee
121 of continuous existence of the prohibition on accepting such a
122 contribution as provided under this subsection.
123 (2) Effective September 30, 2013, the certification of each
124 committee of continuous existence is revoked and all committee
125 accounts must have a zero balance. By July 15, 2013, the
126 Division of Elections of the Department of State shall notify
127 each committee of continuous existence of the revocation of its
128 certification pursuant to this subsection. Following the
129 revocation of certification, each committee of continuous
130 existence shall file any outstanding report as required by law.
131 (3)(a) A violation of this section or any other provision
132 of chapter 106 constitutes a violation of chapter 106 regardless
133 of whether the committee of continuous existence is legally
134 dissolved.
135 (b) A political committee or electioneering communications
136 organization that has received funds from a committee of
137 continuous existence whose certification has been revoked and
138 that is directly or indirectly established, maintained, or
139 controlled by the same individual or group as the former
140 committee of continuous existence, is responsible for any unpaid
141 fine or penalty incurred by the former committee of continuous
142 existence. If no such political committee or electioneering
143 communications organization exists, the principal officers of
144 the former committee of continuous existence shall be jointly
145 and severally liable for any fine or penalty.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

146 (4) Notwithstanding any other provision of law, a committee
147 of continuous existence may make unlimited contributions to a
148 political committee.
149 (5) This section shall be effective upon this act becoming
150 a law.
151 Section 3. Section 106.011, Florida Statutes, is reordered
152 and amended to read:
153 106.011 Definitions.—As used in this chapter, the following
154 terms have the following meanings unless the context clearly
155 indicates otherwise:
156 (16)~~(1)~~(a) "Political committee" means:
157 1. A combination of two or more individuals, or a person
158 other than an individual, that, in an aggregate amount in excess
159 of $500 during a single calendar year:
160 a. Accepts contributions for the purpose of making
161 contributions to any candidate, political committee, ~~committee~~
162 ~~of continuous existence,~~ affiliated party committee, or
163 political party;
164 b. Accepts contributions for the purpose of expressly
165 advocating the election or defeat of a candidate or the passage
166 or defeat of an issue;
167 c. Makes expenditures that expressly advocate the election
168 or defeat of a candidate or the passage or defeat of an issue;
169 or
170 d. Makes contributions to a common fund, other than a joint
171 checking account between spouses, from which contributions are
172 made to any candidate, political committee, ~~committee of~~
173 ~~continuous existence,~~ affiliated party committee, or political
174 party;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

175 2. The sponsor of a proposed constitutional amendment by
176 initiative who intends to seek the signatures of registered
177 electors.
178 (b) Notwithstanding paragraph (a), the following entities
179 are not considered political committees for purposes of this
180 chapter:
181 1. ~~Organizations which are certified by~~ ~~the Department of~~
182 ~~State as committees of continuous existence pursuant to s.~~
183 ~~106.04,~~ National political parties, the state and county
184 executive committees of political parties, and affiliated party
185 committees regulated by chapter 103.
186 2. Corporations regulated by chapter 607 or chapter 617 or
187 other business entities formed for purposes other than to
188 support or oppose issues or candidates, if their political
189 activities are limited to contributions to candidates, political
190 parties, affiliated party committees, or political committees or
191 expenditures in support of or opposition to an issue from
192 corporate or business funds and if no contributions are received
193 by such corporations or business entities.
194 3. Electioneering communications organizations as defined
195 in subsection (9) ~~(19)~~.
196 ~~(2) "Committee of continuous existence" means any group,~~
197 ~~organization, association, or other such entity which is~~
198 ~~certified pursuant to the provisions of s. 106.04.~~
199 (5)~~(3)~~ "Contribution" means:
200 (a) A gift, subscription, conveyance, deposit, loan,
201 payment, or distribution of money or anything of value,
202 including contributions in kind having an attributable monetary
203 value in any form, made for the purpose of influencing the

204 results of an election or making an electioneering
205 communication.
206 (b) A transfer of funds between political committees,
207 ~~between committees of continuous existence,~~ between
208 electioneering communications organizations, or between any
209 combination of these groups.
210 (c) The payment, by a ~~any~~ person other than a candidate or
211 political committee, of compensation for the personal services
212 of another person which are rendered to a candidate or political
213 committee without charge to the candidate or committee for such
214 services.
215 (d) The transfer of funds by a campaign treasurer or deputy
216 campaign treasurer between a primary depository and a separate
217 interest-bearing account or certificate of deposit, and the term
218 includes ~~any~~ interest earned on such account or certificate.
219
220 Notwithstanding the foregoing meanings of "contribution," the
221 term may not be construed to include services, including, but
222 not limited to, legal and accounting services, provided without
223 compensation by individuals volunteering a portion or all of
224 their time on behalf of a candidate or political committee or
225 editorial endorsements.
226 (10)~~(4)~~(a) "Expenditure" means a purchase, payment,
227 distribution, loan, advance, transfer of funds by a campaign
228 treasurer or deputy campaign treasurer between a primary
229 depository and a separate interest-bearing account or
230 certificate of deposit, or gift of money or anything of value
231 made for the purpose of influencing the results of an election
232 or making an electioneering communication. However,

233 "expenditure" does not include a purchase, payment,
234 distribution, loan, advance, or gift of money or anything of
235 value made for the purpose of influencing the results of an
236 election when made by an organization, in existence before ~~prior~~
237 ~~to~~ the time during which a candidate qualifies or an issue is
238 placed on the ballot for that election, for the purpose of
239 printing or distributing such organization's newsletter,
240 containing a statement by such organization in support of or
241 opposition to a candidate or issue, which newsletter is
242 distributed only to members of such organization.
243 (b) As used in this chapter, an "expenditure" for an
244 electioneering communication is made when the earliest of the
245 following occurs:
246 1. A person enters into a contract for applicable goods or
247 services;
248 2. A person makes payment, in whole or in part, for the
249 production or public dissemination of applicable goods or
250 services; or
251 3. The electioneering communication is publicly
252 disseminated.
253 (12) ~~(5)~~(a) "Independent expenditure" means an expenditure
254 by a person for the purpose of expressly advocating the election
255 or defeat of a candidate or the approval or rejection of an
256 issue, which expenditure is not controlled by, coordinated with,
257 or made upon consultation with, any candidate, political
258 committee, or agent of such candidate or committee. An
259 expenditure for such purpose by a person having a contract with
260 the candidate, political committee, or agent of such candidate
261 or committee in a given election period is ~~shall~~ not ~~be deemed~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

262 an independent expenditure.
263 (b) An expenditure for the purpose of expressly advocating
264 the election or defeat of a candidate which is made by the
265 national, state, or county executive committee of a political
266 party, including any subordinate committee of the political
267 party, an affiliated party committee, a political committee, ~~a~~
268 ~~committee of continuous existence,~~ or any other person is ~~shall~~
269 not ~~be~~ considered an independent expenditure if the committee or
270 person:
271 1. Communicates with the candidate, the candidate's
272 campaign, or an agent of the candidate acting on behalf of the
273 candidate, including a ~~any~~ pollster, media consultant,
274 advertising agency, vendor, advisor, or staff member, concerning
275 the preparation of, use of, or payment for, the specific
276 expenditure or advertising campaign at issue; ~~or~~
277 2. Makes a payment in cooperation, consultation, or concert
278 with, at the request or suggestion of, or pursuant to a ~~any~~
279 general or particular understanding with the candidate, the
280 candidate's campaign, a political committee supporting the
281 candidate, or an agent of the candidate relating to the specific
282 expenditure or advertising campaign at issue; ~~or~~
283 3. Makes a payment for the dissemination, distribution, or
284 republication, in whole or in part, of a ~~any~~ broadcast or a ~~any~~
285 written, graphic, or other form of campaign material prepared by
286 the candidate, the candidate's campaign, or an agent of the
287 candidate, including a ~~any~~ pollster, media consultant,
288 advertising agency, vendor, advisor, or staff member; ~~or~~
289 4. Makes a payment based on information about the
290 candidate's plans, projects, or needs communicated to a member

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

291 of the committee or person by the candidate or an agent of the
292 candidate, provided the committee or person uses the information
293 in any way, in whole or in part, either directly or indirectly,
294 to design, prepare, or pay for the specific expenditure or
295 advertising campaign at issue; ~~or~~
296 5. After the last day of the qualifying period prescribed
297 for the candidate, consults about the candidate's plans,
298 projects, or needs in connection with the candidate's pursuit of
299 election to office and the information is used in any way to
300 plan, create, design, or prepare an independent expenditure or
301 advertising campaign, with:
302 a. An ~~Any~~ officer, director, employee, or agent of a
303 national, state, or county executive committee of a political
304 party or an affiliated party committee that has made or intends
305 to make expenditures in connection with or contributions to the
306 candidate; or
307 b. A ~~Any~~ person whose professional services have been
308 retained by a national, state, or county executive committee of
309 a political party or an affiliated party committee that has made
310 or intends to make expenditures in connection with or
311 contributions to the candidate; ~~or~~
312 6. After the last day of the qualifying period prescribed
313 for the candidate, retains the professional services of a ~~any~~
314 person also providing those services to the candidate in
315 connection with the candidate's pursuit of election to office;
316 or
317 7. Arranges, coordinates, or directs the expenditure, in
318 any way, with the candidate or an agent of the candidate.
319 (7)~~(6)~~ "Election" means a ~~any~~ primary election, special

320 primary election, general election, special election, or
321 municipal election held in this state for the purpose of
322 nominating or electing candidates to public office, choosing
323 delegates to the national nominating conventions of political
324 parties, selecting a member of a political party executive
325 committee, or submitting an issue to the electors for their
326 approval or rejection.
327 (13)~~(7)~~ "Issue" means a ~~any~~ proposition that ~~which~~ is
328 required by the State Constitution, by law or resolution of the
329 Legislature, or by the charter, ordinance, or resolution of a
330 ~~any~~ political subdivision of this state to be submitted to the
331 electors for their approval or rejection at an election, or a
332 ~~any~~ proposition for which a petition is circulated in order to
333 have such proposition placed on the ballot at an ~~any~~ election.
334 (14)~~(8)~~ "Person" means an individual or a corporation,
335 association, firm, partnership, joint venture, joint stock
336 company, club, organization, estate, trust, business trust,
337 syndicate, or other combination of individuals having collective
338 capacity. The term includes a political party, affiliated party
339 committee, or political committee~~, or committee of continuous~~
340 ~~existence~~.
341 (2)~~(9)~~ "Campaign treasurer" means an individual appointed
342 by a candidate or political committee as provided in this
343 chapter.
344 (17)~~(10)~~ "Public office" means a ~~any~~ state, county,
345 municipal, or school or other district office or position that
346 ~~which~~ is filled by vote of the electors.
347 (1)~~(11)~~ "Campaign fund raiser" means an ~~any~~ affair held to
348 raise funds to be used in a campaign for public office.

349 (6)~~(12)~~ “Division” means the Division of Elections of the
350 Department of State.
351 (4)~~(13)~~ “Communications media” means broadcasting stations,
352 newspapers, magazines, outdoor advertising facilities, printers,
353 direct mail, advertising agencies, the Internet, and telephone
354 companies; but with respect to telephones, an expenditure is
355 ~~shall be~~ deemed to be an expenditure for the use of
356 communications media only if made for the costs of telephones,
357 paid telephonists, or automatic telephone equipment to be used
358 by a candidate or a political committee to communicate with
359 potential voters but excluding the ~~any~~ costs of telephones
360 incurred by a volunteer for use of telephones by such volunteer;
361 however, with respect to the Internet, an expenditure is ~~shall~~
362 ~~be~~ deemed an expenditure for use of communications media only if
363 made for the cost of creating or disseminating a message on a
364 computer information system accessible by more than one person
365 but excluding internal communications of a campaign or of any
366 group.
367 (11)~~(14)~~ “Filing officer” means the person before whom a
368 candidate qualifies~~,~~ or the agency or officer with whom a
369 political committee or an electioneering communications
370 organization registers~~, or the agency by whom a committee of~~
371 ~~continuous existence is certified~~.
372 (18)~~(15)~~ “Unopposed candidate” means a candidate for
373 nomination or election to an office who, after the last day on
374 which a ~~any~~ person, including a write-in candidate, may qualify,
375 is without opposition in the election at which the office is to
376 be filled or who is without such opposition after such date as a
377 result of a ~~any~~ primary election or of withdrawal by other

378 candidates seeking the same office. A candidate is not an
379 unopposed candidate if there is a vacancy to be filled under s.
380 100.111(3), if there is a legal proceeding pending regarding the
381 right to a ballot position for the office sought by the
382 candidate, or if the candidate is seeking retention as a justice
383 or judge.
384 (3)~~(16)~~ “Candidate” means a ~~any~~ person to whom any ~~one or~~
385 ~~more~~ of the following applies ~~apply~~:
386 (a) A ~~Any~~ person who seeks to qualify for nomination or
387 election by means of the petitioning process.
388 (b) A ~~Any~~ person who seeks to qualify for election as a
389 write-in candidate.
390 (c) A ~~Any~~ person who receives contributions or makes
391 expenditures, or consents for any other person to receive
392 contributions or make expenditures, with a view to bring about
393 his or her nomination or election to, or retention in, public
394 office.
395 (d) A ~~Any~~ person who appoints a treasurer and designates a
396 primary depository.
397 (e) A ~~Any~~ person who files qualification papers and
398 subscribes to a candidate’s oath as required by law.
399
400 However, this definition does not include any candidate for a
401 political party executive committee. Expenditures related to
402 potential candidate polls as provided in s. 106.17 are not
403 contributions or expenditures for purposes of this subsection.
404 (15)~~(17)~~ “Political advertisement” means a paid expression
405 in a ~~any~~ communications media prescribed in subsection (4) ~~(13)~~,
406 whether radio, television, newspaper, magazine, periodical,

407 campaign literature, direct mail, or display or by means other
408 than the spoken word in direct conversation, which expressly
409 advocates the election or defeat of a candidate or the approval
410 or rejection of an issue. However, political advertisement does
411 not include:
412 (a) A statement by an organization, in existence before
413 ~~prior to~~ the time during which a candidate qualifies or an issue
414 is placed on the ballot for that election, in support of or
415 opposition to a candidate or issue, in that organization's
416 newsletter, which newsletter is distributed only to the members
417 of that organization.
418 (b) Editorial endorsements by a ~~any~~ newspaper, a radio or
419 television station, or any other recognized news medium.
420 (8)~~(18)~~(a) "Electioneering communication" means ~~any~~
421 communication that is publicly distributed by a television
422 station, radio station, cable television system, satellite
423 system, newspaper, magazine, direct mail, or telephone and that:
424 1. Refers to or depicts a clearly identified candidate for
425 office without expressly advocating the election or defeat of a
426 candidate but that is susceptible of no reasonable
427 interpretation other than an appeal to vote for or against a
428 specific candidate;
429 2. Is made within 30 days before a primary or special
430 primary election or 60 days before any other election for the
431 office sought by the candidate; and
432 3. Is targeted to the relevant electorate in the geographic
433 area the candidate would represent if elected.
434 (b) The term "electioneering communication" does not
435 include:

436 1. A communication disseminated through a means of
437 communication other than a television station, radio station,
438 cable television system, satellite system, newspaper, magazine,
439 direct mail, telephone, or statement or depiction by an
440 organization, in existence before ~~prior to~~ the time during which
441 a candidate named or depicted qualifies for that election, made
442 in that organization's newsletter, which newsletter is
443 distributed only to members of that organization.
444 2. A communication in a news story, commentary, or
445 editorial distributed through the facilities of a ~~any~~ radio
446 station, television station, cable television system, or
447 satellite system, unless the facilities are owned or controlled
448 by a ~~any~~ political party, political committee, or candidate. A
449 news story distributed through the facilities owned or
450 controlled by a ~~any~~ political party, political committee, or
451 candidate may nevertheless be exempt if it represents a bona
452 fide news account communicated through a licensed broadcasting
453 facility and the communication is part of a general pattern of
454 campaign-related news accounts that give reasonably equal
455 coverage to all opposing candidates in the area.
456 3. A communication that constitutes a public debate or
457 forum that includes at least two opposing candidates for an
458 office or one advocate and one opponent of an issue, or that
459 solely promotes such a debate or forum and is made by or on
460 behalf of the person sponsoring the debate or forum, provided
461 that:
462 a. The staging organization is either:
463 (I) A charitable organization that does not make other
464 electioneering communications and does not otherwise support or

465 oppose any political candidate or political party; or
466 (II) A newspaper, radio station, television station, or
467 other recognized news medium; and
468 b. The staging organization does not structure the debate
469 to promote or advance one candidate or issue position over
470 another.
471 (c) For purposes of this chapter, an expenditure made for,
472 or in furtherance of, an electioneering communication is ~~shall~~
473 not ~~be~~ considered a contribution to or on behalf of any
474 candidate.
475 (d) For purposes of this chapter, an electioneering
476 communication does ~~shall~~ not constitute an independent
477 expenditure and is not ~~nor be~~ subject to the limitations
478 applicable to independent expenditures.
479 (9)~~(19)~~ "Electioneering communications organization" means
480 any group, other than a political party, affiliated party
481 committee, or political committee, ~~or committee of continuous~~
482 ~~existence,~~ whose election-related activities are limited to
483 making expenditures for electioneering communications or
484 accepting contributions for the purpose of making electioneering
485 communications and whose activities would not otherwise require
486 the group to register as a political party~~,~~ or political
487 committee~~, or committee of continuous existence~~ under this
488 chapter.
489 Section 4. Paragraph (a) of subsection (1) and paragraph
490 (d) of subsection (3) of section 106.021, Florida Statutes, are
491 amended to read:
492 106.021 Campaign treasurers; deputies; primary and
493 secondary depositories.—

494 (1)(a) Each candidate for nomination or election to office
495 and each political committee shall appoint a campaign treasurer.
496 Each person who seeks to qualify for nomination or election to,
497 or retention in, office shall appoint a campaign treasurer and
498 designate a primary campaign depository before ~~prior to~~
499 qualifying for office. Any person who seeks to qualify for
500 election or nomination to any office by means of the petitioning
501 process shall appoint a treasurer and designate a primary
502 depository on or before the date he or she obtains the
503 petitions. ~~Each candidate shall~~ At the same time a candidate ~~he~~
504 ~~or she~~ designates a campaign depository and appoints a
505 treasurer, the candidate shall also designate the office for
506 which he or she is a candidate. If the candidate is running for
507 an office that ~~which~~ will be grouped on the ballot with two or
508 more similar offices to be filled at the same election, the
509 candidate must indicate for which group or district office he or
510 she is running. ~~Nothing in~~ This subsection does not ~~shall~~
511 prohibit a candidate, at a later date, from changing the
512 designation of the office for which he or she is a candidate.
513 However, if a candidate changes the designated office for which
514 he or she is a candidate, the candidate must notify all
515 contributors in writing of the intent to seek a different office
516 and offer to return pro rata, upon their request, those
517 contributions given in support of the original office sought.
518 This notification shall be given within 15 days after the filing
519 of the change of designation and shall include a standard form
520 developed by the Division of Elections for requesting the return
521 of contributions. The notice requirement does ~~shall~~ not apply to
522 any change in a numerical designation resulting solely from

523 redistricting. If, within 30 days after being notified by the
524 candidate of the intent to seek a different office, the
525 contributor notifies the candidate in writing that the
526 contributor wishes his or her contribution to be returned, the
527 candidate shall return the contribution, on a pro rata basis,
528 calculated as of the date the change of designation is filed. Up
529 to a maximum of the contribution limits specified in s. 106.08,
530 a candidate who runs for an office other than the office
531 originally designated may use any contribution that a donor does
532 not request ~~Any contributions not requested to~~ be returned
533 within the 30-day period for the newly designated office,
534 provided the candidate disposes of any amount exceeding the
535 contribution limit pursuant to the options in s. 106.11(5)(b)
536 and (c) or s. 106.141(4)(a)1., s. 106.141(4)(a)2., or s.
537 106.141(4)(a)4.; notwithstanding, the full amount of the
538 contribution for the original office shall count toward the
539 contribution limits specified in s. 106.08 for the newly
540 designated office ~~may be used by the candidate for the newly~~
541 ~~designated office~~. A ~~No~~ person may not ~~shall~~ accept any
542 contribution or make any expenditure with a view to bringing
543 about his or her nomination, election, or retention in public
544 office, or authorize another to accept such contributions or
545 make such expenditure on the person's behalf, unless such person
546 has appointed a campaign treasurer and designated a primary
547 campaign depository. A candidate for an office voted upon
548 statewide may appoint not more than 15 deputy campaign
549 treasurers, and any other candidate or political committee may
550 appoint not more than 3 deputy campaign treasurers. The names
551 and addresses of the campaign treasurer and deputy campaign

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

552 treasurers so appointed shall be filed with the officer before
553 whom such candidate is required to qualify or with whom such
554 political committee is required to register pursuant to s.
555 106.03.
556 (3) No contribution or expenditure, including contributions
557 or expenditures of a candidate or of the candidate's family,
558 shall be directly or indirectly made or received in furtherance
559 of the candidacy of any person for nomination or election to
560 political office in the state or on behalf of any political
561 committee except through the duly appointed campaign treasurer
562 of the candidate or political committee, subject to the
563 following exceptions:
564 (d) Expenditures made directly by any ~~political committee,~~
565 affiliated party committee~~,~~ or political party regulated by
566 chapter 103 for obtaining time, space, or services in or by any
567 communications medium for the purpose of jointly endorsing three
568 or more candidates, and any such expenditure may ~~shall~~ not be
569 considered a contribution or expenditure to or on behalf of any
570 such candidates for the purposes of this chapter.
571 Section 5. Subsection (1) of section 106.022, Florida
572 Statutes, is amended to read:
573 106.022 Appointment of a registered agent; duties.—
574 (1) Each political committee~~, committee of continuous~~
575 ~~existence,~~ or electioneering communications organization shall
576 have and continuously maintain in this state a registered office
577 and a registered agent and must file with the filing officer a
578 statement of appointment for the registered office and
579 registered agent. The statement of appointment must:
580 (a) Provide the name of the registered agent and the street

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

581 address and phone number for the registered office;
582 (b) Identify the entity for whom the registered agent
583 serves;
584 (c) Designate the address the registered agent wishes to
585 use to receive mail;
586 (d) Include the entity's undertaking to inform the filing
587 officer of any change in such designated address;
588 (e) Provide for the registered agent's acceptance of the
589 appointment, which must confirm that the registered agent is
590 familiar with and accepts the obligations of the position as set
591 forth in this section; and
592 (f) Contain the signature of the registered agent and the
593 entity engaging the registered agent.
594 Section 6. Paragraph (c) of subsection (1) of section
595 106.025, Florida Statutes, is amended to read:
596 106.025 Campaign fund raisers.—
597 (1)
598 (c) Any tickets or advertising for ~~such~~ a campaign fund
599 raiser must comply with ~~is exempt from~~ the requirements of s.
600 106.143.
601 Section 7. Paragraph (b) of subsection (1) and subsection
602 (2) of section 106.03, Florida Statutes, are amended to read:
603 106.03 Registration of political committees and
604 electioneering communications organizations.—
605 (1)
606 (b)1. Each group shall file a statement of organization as
607 an electioneering communications organization within 24 hours
608 after the date on which it makes expenditures for an
609 electioneering communication in excess of $5,000, if such

610 expenditures are made within the timeframes specified in s.
611 106.011(8)(a)2. ~~106.011(18)(a)2.~~ If the group makes expenditures
612 for an electioneering communication in excess of $5,000 before
613 the timeframes specified in s. 106.011(8)(a)2. ~~106.011(18)(a)2.~~,
614 it shall file the statement of organization within 24 hours
615 after the 30th day before a primary or special primary election,
616 or within 24 hours after the 60th day before any other election,
617 whichever is applicable.
618 2.a. In a statewide, legislative, or multicounty election,
619 an electioneering communications organization shall file a
620 statement of organization with the Division of Elections.
621 b. In a countywide election or any election held on less
622 than a countywide basis, except as described in sub-subparagraph
623 c., an electioneering communications organization shall file a
624 statement of organization with the supervisor of elections of
625 the county in which the election is being held.
626 c. In a municipal election, an electioneering
627 communications organization shall file a statement of
628 organization with the officer before whom municipal candidates
629 qualify.
630 d. Any electioneering communications organization that
631 would be required to file a statement of organization in two or
632 more locations need only file a statement of organization with
633 the Division of Elections.
634 (2) The statement of organization shall include:
635 (a) The name, mailing address, and street address of the
636 committee or electioneering communications organization;
637 (b) The names, street addresses, and relationships of
638 affiliated or connected organizations, including any affiliated

639 sponsors;
640 (c) The area, scope, or jurisdiction of the committee or
641 electioneering communications organization;
642 (d) The name, mailing address, street address, and position
643 of the custodian of books and accounts;
644 (e) The name, mailing address, street address, and position
645 of other principal officers, including the treasurer and deputy
646 treasurer, if any;
647 (f) The name, address, office sought, and party affiliation
648 of:
649 1. Each candidate whom the committee is supporting;
650 2. Any other individual, if any, whom the committee is
651 supporting for nomination for election, or election, to any
652 public office whatever;
653 (g) Any issue or issues the committee is supporting or
654 opposing;
655 (h) If the committee is supporting the entire ticket of any
656 party, a statement to that effect and the name of the party;
657 (i) A statement of whether the committee is a continuing
658 one;
659 (j) Plans for the disposition of residual funds which will
660 be made in the event of dissolution;
661 (k) A listing of all banks, safe-deposit boxes, or other
662 depositories used for committee or electioneering communications
663 organization funds;
664 (l) A statement of the reports required to be filed by the
665 committee or the electioneering communications organization with
666 federal officials, if any, and the names, addresses, and
667 positions of such officials; and

668 (m) A statement of whether the electioneering
669 communications organization was formed as a newly created
670 organization during the current calendar quarter or was formed
671 from an organization existing prior to the current calendar
672 quarter. For purposes of this subsection, calendar quarters end
673 the last day of March, June, September, and December.
674 Section 8. Section 106.05, Florida Statutes, is amended to
675 read:
676 106.05 Deposit of contributions; statement of campaign
677 treasurer.—All funds received by the campaign treasurer of any
678 candidate or political committee shall, prior to the end of the
679 5th business day following the receipt thereof, Saturdays,
680 Sundays, and legal holidays excluded, be deposited in a campaign
681 depository designated pursuant to s. 106.021, in an account that
682 contains the ~~designated "...(~~name of the candidate or
683 committee.~~)... Campaign Account."~~ Except for contributions to
684 political committees made by payroll deduction, all deposits
685 shall be accompanied by a bank deposit slip containing the name
686 of each contributor and the amount contributed by each. If a
687 contribution is deposited in a secondary campaign depository,
688 the depository shall forward the full amount of the deposit,
689 along with a copy of the deposit slip accompanying the deposit,
690 to the primary campaign depository prior to the end of the 1st
691 business day following the deposit.
692 Section 9. Section 106.07, Florida Statutes, is reenacted
693 and amended to read:
694 106.07 Reports; certification and filing.—
695 (1) Each campaign treasurer designated by a candidate or
696 political committee pursuant to s. 106.021 shall file regular

697 reports of all contributions received, and all expenditures
698 made, by or on behalf of such candidate or political committee.
699 Except as provided in paragraphs (a) and (b) ~~for the third~~
700 ~~calendar quarter immediately preceding a general election~~,
701 reports shall be filed on the 10th day following the end of each
702 calendar month ~~quarter~~ from the time the campaign treasurer is
703 appointed, except that, if the 10th day following the end of a
704 calendar month ~~quarter~~ occurs on a Saturday, Sunday, or legal
705 holiday, the report shall be filed on the next following day
706 that ~~which~~ is not a Saturday, Sunday, or legal holiday. Monthly
707 ~~Quarterly~~ reports shall include all contributions received and
708 expenditures made during the calendar month ~~quarter~~ which have
709 not otherwise been reported pursuant to this section.
710 (a) A statewide candidate or a political committee required
711 to file reports with the division must file reports:
712 1. On the 60th day immediately preceding the primary
713 election, and each week thereafter, with the last weekly report
714 being filed on the 11th day immediately preceding the general
715 election.
716 2. On the 10th day immediately preceding the general
717 election, and each day thereafter, with the last daily report
718 being filed the 4th day before the general election ~~Except as~~
719 ~~provided in paragraph (b), the reports shall also be filed on~~
720 ~~the 32nd, 18th, and 4th days immediately preceding the primary~~
721 ~~and on the 46th, 32nd, 18th, and 4th days immediately preceding~~
722 ~~the election, for a candidate who is opposed in seeking~~
723 ~~nomination or election to any office, for a political committee,~~
724 ~~or for a committee of continuous existence~~.
725 (b) Any other candidate or a political committee required

726 to file reports with a filing officer other than the division
727 must file reports on the 60th day immediately preceding the
728 primary election, and biweekly on each Friday thereafter through
729 and including the 4th day immediately preceding the general
730 election, with additional reports due on the 25th and 11th days
731 before the primary election and the general election ~~Any~~
732 ~~statewide candidate who has requested to receive contributions~~
733 ~~pursuant to the Florida Election Campaign Financing Act or any~~
734 ~~statewide candidate in a race with a candidate who has requested~~
735 ~~to receive contributions pursuant to the act shall also file~~
736 ~~reports on the 4th, 11th, 18th, 25th, and 32nd days prior to the~~
737 ~~primary election, and on the 4th, 11th, 18th, 25th, 32nd, 39th,~~
738 ~~46th, and 53rd days prior to the general election~~.
739 (c) Following the last day of qualifying for office, any
740 unopposed candidate need only file a report within 90 days after
741 the date such candidate became unopposed. Such report shall
742 contain all previously unreported contributions and expenditures
743 as required by this section and shall reflect disposition of
744 funds as required by s. 106.141.
745 (d)1. When a special election is called to fill a vacancy
746 in office, all political committees making contributions or
747 expenditures to influence the results of such special election
748 or the preceding special primary election shall file campaign
749 treasurers' reports with the filing officer on the dates set by
750 the Department of State pursuant to s. 100.111.
751 2. When an election is called for an issue to appear on the
752 ballot at a time when no candidates are scheduled to appear on
753 the ballot, all political committees making contributions or
754 expenditures in support of or in opposition to such issue shall

755 file reports on the 18th and 4th days before ~~prior to~~ such
756 election.
757 (e) The filing officer shall provide each candidate with a
758 schedule designating the beginning and end of reporting periods
759 as well as the corresponding designated due dates.
760 (2)(a)1. All reports required of a candidate by this
761 section shall be filed with the officer before whom the
762 candidate is required by law to qualify. All candidates who file
763 with the Department of State shall file their reports pursuant
764 to s. 106.0705. Except as provided in s. 106.0705, reports shall
765 be filed not later than 5 p.m. of the day designated; however,
766 any report postmarked by the United States Postal Service no
767 later than midnight of the day designated is ~~shall be~~ deemed to
768 have been filed in a timely manner. Any report received by the
769 filing officer within 5 days after the designated due date that
770 was delivered by the United States Postal Service is ~~shall be~~
771 deemed timely filed unless it has a postmark that indicates that
772 the report was mailed after the designated due date. A
773 certificate of mailing obtained from and dated by the United
774 States Postal Service at the time of mailing, or a receipt from
775 an established courier company, which bears a date on or before
776 the date on which the report is due, suffices as ~~shall be~~ proof
777 of mailing in a timely manner. Reports must ~~shall~~ contain
778 information on ~~of~~ all previously unreported contributions
779 received and expenditures made as of the preceding Friday,
780 except that the report filed on the Friday immediately preceding
781 the election must ~~shall~~ contain information on ~~of~~ all previously
782 unreported contributions received and expenditures made as of
783 the day preceding that designated due date. All such reports are

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

784 ~~shall be~~ open to public inspection.
785 2. This subsection does not prohibit the governing body of
786 a political subdivision, by ordinance or resolution, from
787 imposing upon its own officers and candidates electronic filing
788 requirements not in conflict with s. 106.0705. Expenditure of
789 public funds for such purpose is deemed to be for a valid public
790 purpose.
791 (b)1. Any report that is deemed to be incomplete by the
792 officer with whom the candidate qualifies must ~~shall~~ be accepted
793 on a conditional basis. The campaign treasurer shall be notified
794 by certified mail or by another method using a common carrier
795 that provides a proof of delivery of the notice as to why the
796 report is incomplete and within 7 days after receipt of such
797 notice must file an addendum to the report providing all
798 information necessary to complete the report in compliance with
799 this section. Failure to file a complete report after such
800 notice constitutes a violation of this chapter.
801 2. Notice is deemed complete upon proof of delivery of a
802 written notice to the mailing or street address of the campaign
803 treasurer or registered agent of record with the filing officer.
804 (3) Reports required of a political committee shall be
805 filed with the agency or officer before whom such committee
806 registers pursuant to s. 106.03(3) and shall be subject to the
807 same filing conditions as established for candidates' reports.
808 Incomplete reports by political committees shall be treated in
809 the manner provided for incomplete reports by candidates in
810 subsection (2).
811 (4)(a) Except as provided in paragraph (b), each report
812 required by this section must contain:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

813 1. The full name, address, and occupation, if any of each
814 person who has made one or more contributions to or for such
815 committee or candidate within the reporting period, together
816 with the amount and date of such contributions. For
817 corporations, the report must provide as clear a description as
818 practicable of the principal type of business conducted by the
819 corporation. However, if the contribution is $100 or less or is
820 from a relative, as defined in s. 112.312, provided that the
821 relationship is reported, the occupation of the contributor or
822 the principal type of business need not be listed.
823 2. The name and address of each political committee from
824 which the reporting committee or the candidate received, or to
825 which the reporting committee or candidate made, any transfer of
826 funds, together with the amounts and dates of all transfers.
827 3. Each loan for campaign purposes to or from any person or
828 political committee within the reporting period, together with
829 the full names, addresses, and occupations, and principal places
830 of business, if any, of the lender and endorsers, if any, and
831 the date and amount of such loans.
832 4. A statement of each contribution, rebate, refund, or
833 other receipt not otherwise listed under subparagraphs 1.
834 through 3.
835 5. The total sums of all loans, in-kind contributions, and
836 other receipts by or for such committee or candidate during the
837 reporting period. The reporting forms shall be designed to
838 elicit separate totals for in-kind contributions, loans, and
839 other receipts.
840 6. The full name and address of each person to whom
841 expenditures have been made by or on behalf of the committee or

842 candidate within the reporting period; the amount, date, and
843 purpose of each such expenditure; and the name and address of,
844 and office sought by, each candidate on whose behalf such
845 expenditure was made. However, expenditures made from the petty
846 cash fund provided by s. 106.12 need not be reported
847 individually.
848 7. The full name and address of each person to whom an
849 expenditure for personal services, salary, or reimbursement for
850 authorized expenses as provided in s. 106.021(3) has been made
851 and which is not otherwise reported, including the amount, date,
852 and purpose of such expenditure. However, expenditures made from
853 the petty cash fund provided for in s. 106.12 need not be
854 reported individually. Receipts for reimbursement for authorized
855 expenditures shall be retained by the treasurer along with the
856 records for the campaign account.
857 8. The total amount withdrawn and the total amount spent
858 for petty cash purposes pursuant to this chapter during the
859 reporting period.
860 9. The total sum of expenditures made by such committee or
861 candidate during the reporting period.
862 10. The amount and nature of debts and obligations owed by
863 or to the committee or candidate, which relate to the conduct of
864 any political campaign.
865 11. Transaction information for each credit card purchase.
866 Receipts for each credit card purchase shall be retained by the
867 treasurer with the records for the campaign account.
868 12. The amount and nature of any separate interest-bearing
869 accounts or certificates of deposit and identification of the
870 financial institution in which such accounts or certificates of

871 deposit are located.
872 13. The primary purposes of an expenditure made indirectly
873 through a campaign treasurer pursuant to s. 106.021(3) for goods
874 and services such as communications media placement or
875 procurement services, campaign signs, insurance, and other
876 expenditures that include multiple components as part of the
877 expenditure. The primary purpose of an expenditure shall be that
878 purpose, including integral and directly related components,
879 that comprises 80 percent of such expenditure.
880 (b) Multiple uniform contributions from the same person,
881 aggregating no more than $250 per calendar year, collected by an
882 organization that is the affiliated sponsor of a political
883 committee, may be reported by the political committee in an
884 aggregate amount listing the number of contributors together
885 with the amount contributed by each and the total amount
886 contributed during the reporting period. The identity of each
887 person making such uniform contribution must be reported to the
888 filing officer as provided in subparagraph (a)1. by July 1 of
889 each calendar year, or, in a general election year, no later
890 than the 60th day immediately preceding the primary election.
891 (c) ~~(b)~~ The filing officer shall make available to any
892 candidate or committee a reporting form which the candidate or
893 committee may use to indicate contributions received by the
894 candidate or committee but returned to the contributor before
895 deposit.
896 (5) The candidate and his or her campaign treasurer, in the
897 case of a candidate, or the political committee chair and
898 campaign treasurer of the committee, in the case of a political
899 committee, shall certify as to the correctness of each report;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

900 and each person so certifying shall bear the responsibility for
901 the accuracy and veracity of each report. Any campaign
902 treasurer, candidate, or political committee chair who willfully
903 certifies the correctness of any report while knowing that such
904 report is incorrect, false, or incomplete commits a misdemeanor
905 of the first degree, punishable as provided in s. 775.082 or s.
906 775.083.
907 (6) The records maintained by the campaign depository with
908 respect to any campaign account regulated by this chapter are
909 subject to inspection by an agent of the Division of Elections
910 or the Florida Elections Commission at any time during normal
911 banking hours, and such depository shall furnish certified
912 copies of any of such records to the Division of Elections or
913 Florida Elections Commission upon request.
914 (7) Notwithstanding any other provisions of this chapter,
915 in any reporting period during which a candidate or~~,~~ political
916 committee~~, or committee of continuous existence~~ has not received
917 funds, made any contributions, or expended any reportable funds,
918 the filing of the required report for that period is waived.
919 However, the next report filed must specify that the report
920 covers the entire period between the last submitted report and
921 the report being filed, and any candidate or~~,~~ political
922 committee~~, or committee of continuous existence~~ not reporting by
923 virtue of this subsection on dates prescribed elsewhere in this
924 chapter shall notify the filing officer in writing on the
925 prescribed reporting date that no report is being filed on that
926 date.
927 (8)(a) Any candidate or political committee failing to file
928 a report on the designated due date is subject to a fine as

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

929 provided in paragraph (b) for each late day, and, in the case of
930 a candidate, such fine shall be paid only from personal funds of
931 the candidate. The fine shall be assessed by the filing officer
932 and the moneys collected shall be deposited:
933 1. In the General Revenue Fund, in the case of a candidate
934 for state office or a political committee that registers with
935 the Division of Elections; or
936 2. In the general revenue fund of the political
937 subdivision, in the case of a candidate for an office of a
938 political subdivision or a political committee that registers
939 with an officer of a political subdivision.
940
941 No separate fine shall be assessed for failure to file a copy of
942 any report required by this section.
943 (b) Upon determining that a report is late, the filing
944 officer shall immediately notify the candidate or chair of the
945 political committee as to the failure to file a report by the
946 designated due date and that a fine is being assessed for each
947 late day. The fine is ~~shall be~~ $50 per day for the first 3 days
948 late and, thereafter, $500 per day for each late day, not to
949 exceed 25 percent of the total receipts or expenditures,
950 whichever is greater, for the period covered by the late report.
951 However, for the reports immediately preceding each special
952 primary election, special election, primary election, and
953 general election, the fine is ~~shall be~~ $500 per day for each
954 late day, not to exceed 25 percent of the total receipts or
955 expenditures, whichever is greater, for the period covered by
956 the late report. For reports required under s. 106.141(8)
957 ~~106.141(7)~~, the fine is $50 per day for each late day, not to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

958 exceed 25 percent of the total receipts or expenditures,
959 whichever is greater, for the period covered by the late report.
960 Upon receipt of the report, the filing officer shall determine
961 the amount of the fine which is due and shall notify the
962 candidate or chair or registered agent of the political
963 committee. The filing officer shall determine the amount of the
964 fine due based upon the earliest of the following:
965 1. When the report is actually received by such officer.
966 2. When the report is postmarked.
967 3. When the certificate of mailing is dated.
968 4. When the receipt from an established courier company is
969 dated.
970 5. When the electronic receipt issued pursuant to s.
971 106.0705 or other electronic filing system authorized in this
972 section is dated.
973
974 Such fine shall be paid to the filing officer within 20 days
975 after receipt of the notice of payment due, unless appeal is
976 made to the Florida Elections Commission pursuant to paragraph
977 (c). Notice is deemed complete upon proof of delivery of written
978 notice to the mailing or street address on record with the
979 filing officer. In the case of a candidate, such fine is ~~shall~~
980 not ~~be~~ an allowable campaign expenditure and shall be paid only
981 from personal funds of the candidate. An officer or member of a
982 political committee is ~~shall~~ not ~~be~~ personally liable for such
983 fine.
984 (c) Any candidate or chair of a political committee may
985 appeal or dispute the fine, based upon, but not limited to,
986 unusual circumstances surrounding the failure to file on the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

987 designated due date, and may request and shall be entitled to a
988 hearing before the Florida Elections Commission, which shall
989 have the authority to waive the fine in whole or in part. The
990 Florida Elections Commission must consider the mitigating and
991 aggravating circumstances contained in s. 106.265(2) when
992 determining the amount of a fine, if any, to be waived. Any such
993 request shall be made within 20 days after receipt of the notice
994 of payment due. In such case, the candidate or chair of the
995 political committee shall, within the 20-day period, notify the
996 filing officer in writing of his or her intention to bring the
997 matter before the commission.
998 (d) The appropriate filing officer shall notify the Florida
999 Elections Commission of the repeated late filing by a candidate
1000 or political committee, the failure of a candidate or political
1001 committee to file a report after notice, or the failure to pay
1002 the fine imposed. The commission shall investigate only those
1003 alleged late filing violations specifically identified by the
1004 filing officer and as set forth in the notification. Any other
1005 alleged violations must be separately stated and reported by the
1006 division to the commission under s. 106.25(2).
1007 (9) The Department of State may prescribe by rule the
1008 requirements for filing campaign treasurers' reports as set
1009 forth in this chapter.
1010 Section 10. Section 106.0702, Florida Statutes, is created
1011 to read:
1012 106.0702 Reporting; political party executive committee
1013 candidates.—
1014 (1) An individual seeking a publicly-elected position on a
1015 political party executive committee who receives a contribution

1016 or makes an expenditure shall file a report of all contributions
1017 received, and all expenditures made. The report shall be filed
1018 on the 4th day immediately preceding the primary election.
1019 (2)(a) The report shall be filed with the supervisor of
1020 elections of the appropriate county. Reports shall be filed no
1021 later than 5 p.m. of the day designated; however, any report
1022 postmarked by the United States Postal Service by the day
1023 designated shall be deemed to have been filed in a timely
1024 manner. Any report received by the filing officer within 5 days
1025 after the designated due date shall be deemed timely filed
1026 unless it has a postmark that indicates that the report was
1027 mailed after the designated due date. A certificate of mailing
1028 obtained from and dated by the United States Postal Service at
1029 the time of mailing, or a receipt from an established courier
1030 company, which bears a date on or before the date on which the
1031 report is due is proof of mailing in a timely manner. The report
1032 filed must contain information of all contributions received and
1033 expenditures made as of the day preceding the designated due
1034 date. All such reports must be open to public inspection.
1035 (b) A reporting individual may submit the report required
1036 under this section through an electronic filing system, if used
1037 by the supervisor for other candidates, in order to satisfy the
1038 filing requirement. Such reports shall be completed and filed
1039 through the electronic filing system not later than midnight on
1040 the 4th day immediately preceding the primary election.
1041 (3)(a) A report that is deemed to be incomplete by the
1042 supervisor shall be accepted on a conditional basis. The
1043 supervisor shall send a notice to the reporting individual by
1044 certified mail or by another method using a common carrier that

1045 provides proof of delivery as to why the report is incomplete.
1046 Within 7 days after receipt of such notice, the reporting
1047 individual must file an addendum to the report providing all
1048 information necessary to complete the report in compliance with
1049 this section. Failure to file a complete report after such
1050 notice constitutes a violation of this chapter.
1051 (b) Notice is deemed complete upon proof of delivery of a
1052 written notice to the mailing or street address which is on
1053 record with the supervisor.
1054 (4)(a) Each report required by this section must contain:
1055 1. The full name, address, and occupation of each person
1056 who has made one or more contributions to or for the reporting
1057 individual within the reporting period, together with the amount
1058 and date of such contributions. For corporations, the report
1059 must provide as clear a description as practicable of the
1060 principal type of business conducted by the corporations.
1061 However, if the contribution is $100 or less or is from a
1062 relative, as defined in s. 112.312, provided that the
1063 relationship is reported, the occupation of the contributor or
1064 the principal type of business need not be listed.
1065 2. The name and address of each political committee from
1066 which the reporting individual has received, or to which the
1067 reporting individual has made, any transfer of funds within the
1068 reporting period, together with the amounts and dates of all
1069 transfers.
1070 3. Each loan for campaign purposes from any person or
1071 political committee within the reporting period, together with
1072 the full name, address, and occupation, and principal place of
1073 business, if any, of the lender and endorser, if any, and the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1074 date and amount of such loans.
1075 4. A statement of each contribution, rebate, refund, or
1076 other receipt not otherwise listed under subparagraphs 1.-3.
1077 5. The total sums of all loans, in-kind contributions, and
1078 other receipts by or for such reporting individual during the
1079 reporting period. The reporting forms shall be designed to
1080 elicit separate totals for in-kind contributions, loans, and
1081 other receipts.
1082 6. The full name and address of each person to whom
1083 expenditures have been made by or on behalf of the reporting
1084 individual within the reporting period; the amount, date, and
1085 purpose of each such expenditure; and the name and address of,
1086 and office sought by, each reporting individual on whose behalf
1087 such expenditure was made.
1088 7. The amount and nature of debts and obligations owed by
1089 or to the reporting individual which relate to the conduct of
1090 any political campaign.
1091 8. Transaction information for each credit card purchase.
1092 Receipts for each credit card purchase shall be retained by the
1093 reporting individual.
1094 9. The amount and nature of any separate interest-bearing
1095 accounts or certificates of deposit and identification of the
1096 financial institution in which such accounts or certificates of
1097 deposit are located.
1098 (b) The supervisor shall make available to any reporting
1099 individual a reporting form that the reporting individual may
1100 use to indicate contributions received by the reporting
1101 individual but returned to the contributor before deposit.
1102 (5) The reporting individual shall certify as to the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1103 correctness of the report and shall bear the responsibility for
1104 the accuracy and veracity of each report. Any reporting
1105 individual who willfully certifies the correctness of the report
1106 while knowing that such report is incorrect, false, or
1107 incomplete commits a misdemeanor of the first degree, punishable
1108 as provided in s. 775.082 or s. 775.083.
1109 (6) Notwithstanding any other provisions of this chapter,
1110 the filing of the required report is waived if the reporting
1111 individual has not received contributions or expended any
1112 reportable funds.
1113 (7)(a) A reporting individual who fails to file a report on
1114 the designated due date is subject to a fine, and such fine
1115 shall be paid only from personal funds of the reporting
1116 individual. The fine shall be $50 per day for the first 3 days
1117 late and, thereafter, $500 per day for each late day, not to
1118 exceed 25 percent of the total receipts or expenditures,
1119 whichever is greater. The fine shall be assessed by the
1120 supervisor, and the moneys collected shall be deposited into the
1121 general revenue fund of the political subdivision.
1122 (b) The supervisor shall determine the amount of the fine
1123 due based upon the earliest of the following:
1124 1. When the report is actually received by the supervisor.
1125 2. When the report is postmarked;
1126 3. When the certificate of mailing is dated;
1127 4. When the receipt from an established courier company is
1128 dated; or
1129 5. When the report is completed and filed through the
1130 electronic filing system, if applicable.
1131

1132 Such fine shall be paid to the supervisor within 20 days after
1133 receipt of the notice of payment due unless appeal is made to
1134 the Florida Elections Commission pursuant to paragraph (c).
1135 Notice is deemed complete upon proof of delivery of written
1136 notice to the mailing or street address on record with the
1137 supervisor. Such fine may not be an allowable campaign
1138 expenditure and shall be paid only from personal funds of the
1139 reporting individual.
1140 (c) A reporting individual may appeal or dispute the fine,
1141 based upon, but not limited to, unusual circumstances
1142 surrounding the failure to file on the designated due date, and
1143 may request and is entitled to a hearing before the Florida
1144 Elections Commission, which has the authority to waive the fine
1145 in whole or in part. The Florida Elections Commission must
1146 consider the mitigating and aggravating circumstances contained
1147 in s. 106.265(2) when determining the amount of a fine, if any,
1148 to be waived. Any such request shall be made within 20 days
1149 after receipt of the notice of payment due. In such case, the
1150 reporting individual must, within 20 days after receipt of the
1151 notice, notify the supervisor in writing of his or her intention
1152 to bring the matter before the commission.
1153 (d) The appropriate supervisor shall notify the Florida
1154 Elections Commission of the late filing by a reporting
1155 individual, the failure of a reporting individual to file a
1156 report after notice, or the failure to pay the fine imposed. The
1157 commission shall investigate only those alleged late filing
1158 violations specifically identified by the supervisor and as set
1159 forth in the notification. Any other alleged violations must be
1160 separately stated and reported by the division to the commission

1161 under s. 106.25(2).
1162 Section 11. Section 106.0703, Florida Statutes, is
1163 reenacted and amended to read:
1164 106.0703 Electioneering communications organizations;
1165 reporting requirements; certification and filing; penalties.—
1166 (1)(a) Each electioneering communications organization
1167 shall file regular reports of all contributions received and all
1168 expenditures made by or on behalf of the organization. Except as
1169 provided in paragraphs (b) and (c), reports must ~~shall~~ be filed
1170 on the 10th day following the end of each calendar month ~~quarter~~
1171 from the time the organization is registered. However, if the
1172 10th day following the end of a calendar month ~~quarter~~ occurs on
1173 a Saturday, Sunday, or legal holiday, the report must ~~shall~~ be
1174 filed on the next following day that is not a Saturday, Sunday,
1175 or legal holiday. Monthly ~~Quarterly~~ reports must ~~shall~~ include
1176 all contributions received and expenditures made during the
1177 calendar month ~~quarter~~ that have not otherwise been reported
1178 pursuant to this section.
1179 (b) For an electioneering communications organization
1180 required to file reports with the division, reports must be
1181 filed:
1182 1. On the 60th day immediately preceding the primary
1183 election, and each week thereafter, with the last weekly report
1184 being filed on the 11th day immediately preceding the general
1185 election.
1186 2. On the 10th day immediately preceding the general
1187 election, and every day thereafter, with the last daily report
1188 being filed the day before the general election ~~Following the~~
1189 ~~last day of candidates qualifying for office, the reports shall~~

1190 ~~be filed on the 32nd, 18th, and 4th days immediately preceding~~
1191 ~~the primary election and on the 46th, 32nd, 18th, and 4th days~~
1192 ~~immediately preceding the general election~~.
1193 (c) For an electioneering communications organization
1194 required to file reports with a filing officer other than the
1195 division, reports must be filed on the 60th day immediately
1196 preceding the primary election, and biweekly on each Friday
1197 thereafter through and including the 4th day immediately
1198 preceding the general election, with additional reports due on
1199 the 25th and 11th days before the primary election and the
1200 general election.
1201 (d) ~~(c)~~ When a special election is called to fill a vacancy
1202 in office, all electioneering communications organizations
1203 making contributions or expenditures to influence the results of
1204 the special election shall file reports with the filing officer
1205 on the dates set by the Department of State pursuant to s.
1206 100.111.
1207 (e) ~~(d)~~ In addition to the reports required by paragraph
1208 (a), an electioneering communications organization that is
1209 registered with the Department of State and that makes a
1210 contribution or expenditure to influence the results of a county
1211 or municipal election that is not being held at the same time as
1212 a state or federal election must file reports with the county or
1213 municipal filing officer on the same dates as county or
1214 municipal candidates or committees for that election. The
1215 electioneering communications organization must also include the
1216 expenditure in the next report filed with the Division of
1217 Elections pursuant to this section following the county or
1218 municipal election.

1219 (f) ~~(e)~~ The filing officer shall make available to each
1220 electioneering communications organization a schedule
1221 designating the beginning and end of reporting periods as well
1222 as the corresponding designated due dates.
1223 (2)(a) Except as provided in s. 106.0705, the reports
1224 required of an electioneering communications organization shall
1225 be filed with the filing officer not later than 5 p.m. of the
1226 day designated. However, any report postmarked by the United
1227 States Postal Service no later than midnight of the day
1228 designated shall be deemed to have been filed in a timely
1229 manner. Any report received by the filing officer within 5 days
1230 after the designated due date that was delivered by the United
1231 States Postal Service shall be deemed timely filed unless it has
1232 a postmark that indicates that the report was mailed after the
1233 designated due date. A certificate of mailing obtained from and
1234 dated by the United States Postal Service at the time of
1235 mailing, or a receipt from an established courier company, which
1236 bears a date on or before the date on which the report is due,
1237 shall be proof of mailing in a timely manner. Reports shall
1238 contain information of all previously unreported contributions
1239 received and expenditures made as of the preceding Friday,
1240 except that the report filed on the Friday immediately preceding
1241 the election shall contain information of all previously
1242 unreported contributions received and expenditures made as of
1243 the day preceding the designated due date. All such reports
1244 shall be open to public inspection.
1245 (b)1. Any report that is deemed to be incomplete by the
1246 officer with whom the electioneering communications organization
1247 files shall be accepted on a conditional basis. The treasurer of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1248 the electioneering communications organization shall be
1249 notified, by certified mail or other common carrier that can
1250 establish proof of delivery for the notice, as to why the report
1251 is incomplete. Within 7 days after receipt of such notice, the
1252 treasurer must file an addendum to the report providing all
1253 information necessary to complete the report in compliance with
1254 this section. Failure to file a complete report after such
1255 notice constitutes a violation of this chapter.
1256 2. Notice is deemed sufficient upon proof of delivery of
1257 written notice to the mailing or street address of the treasurer
1258 or registered agent of the electioneering communication
1259 organization on record with the filing officer.
1260 (3)(a) Each report required by this section must contain:
1261 1. The full name, address, and occupation, if any, of each
1262 person who has made one or more contributions to or for such
1263 electioneering communications organization within the reporting
1264 period, together with the amount and date of such contributions.
1265 For corporations, the report must provide as clear a description
1266 as practicable of the principal type of business conducted by
1267 the corporation. However, if the contribution is $100 or less,
1268 the occupation of the contributor or the principal type of
1269 business need not be listed.
1270 2. The name and address of each political committee from
1271 which or to which the reporting electioneering communications
1272 organization made any transfer of funds, together with the
1273 amounts and dates of all transfers.
1274 3. Each loan for electioneering communication purposes to
1275 or from any person or political committee within the reporting
1276 period, together with the full names, addresses, and occupations

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1277 and principal places of business, if any, of the lender and
1278 endorsers, if any, and the date and amount of such loans.
1279 4. A statement of each contribution, rebate, refund, or
1280 other receipt not otherwise listed under subparagraphs 1.-3.
1281 5. The total sums of all loans, in-kind contributions, and
1282 other receipts by or for such electioneering communications
1283 organization during the reporting period. The reporting forms
1284 shall be designed to elicit separate totals for in-kind
1285 contributions, loans, and other receipts.
1286 6. The full name and address of each person to whom
1287 expenditures have been made by or on behalf of the
1288 electioneering communications organization within the reporting
1289 period and the amount, date, and purpose of each expenditure.
1290 7. The full name and address of each person to whom an
1291 expenditure for personal services, salary, or reimbursement for
1292 expenses has been made and that is not otherwise reported,
1293 including the amount, date, and purpose of the expenditure.
1294 8. The total sum of expenditures made by the electioneering
1295 communications organization during the reporting period.
1296 9. The amount and nature of debts and obligations owed by
1297 or to the electioneering communications organization that relate
1298 to the conduct of any electioneering communication.
1299 10. Transaction information for each credit card purchase.
1300 Receipts for each credit card purchase shall be retained by the
1301 electioneering communications organization.
1302 11. The amount and nature of any separate interest-bearing
1303 accounts or certificates of deposit and identification of the
1304 financial institution in which such accounts or certificates of
1305 deposit are located.

1306 12. The primary purposes of an expenditure made indirectly
1307 through an electioneering communications organization for goods
1308 and services, such as communications media placement or
1309 procurement services and other expenditures that include
1310 multiple components as part of the expenditure. The primary
1311 purpose of an expenditure shall be that purpose, including
1312 integral and directly related components, that comprises 80
1313 percent of such expenditure.
1314 (b) The filing officer shall make available to any
1315 electioneering communications organization a reporting form
1316 which the electioneering communications organization may use to
1317 indicate contributions received by the electioneering
1318 communications organization but returned to the contributor
1319 before deposit.
1320 (4) The treasurer of the electioneering communications
1321 organization shall certify as to the correctness of each report,
1322 and each person so certifying shall bear the responsibility for
1323 the accuracy and veracity of each report. Any treasurer who
1324 willfully certifies the correctness of any report while knowing
1325 that such report is incorrect, false, or incomplete commits a
1326 misdemeanor of the first degree, punishable as provided in s.
1327 775.082 or s. 775.083.
1328 (5) The electioneering communications organization
1329 depository shall provide statements reflecting deposits and
1330 expenditures from the account to the treasurer, who shall retain
1331 the records pursuant to s. 106.06. The records maintained by the
1332 depository with respect to the account shall be subject to
1333 inspection by an agent of the Division of Elections or the
1334 Florida Elections Commission at any time during normal banking

1335 hours, and such depository shall furnish certified copies of any
1336 such records to the Division of Elections or the Florida
1337 Elections Commission upon request.
1338 (6) Notwithstanding any other provisions of this chapter,
1339 in any reporting period during which an electioneering
1340 communications organization has not received funds, made any
1341 contributions, or expended any reportable funds, the treasurer
1342 shall file a written report with the filing officer by the
1343 prescribed reporting date that no reportable contributions or
1344 expenditures were made during the reporting period.
1345 (7)(a) Any electioneering communications organization
1346 failing to file a report on the designated due date shall be
1347 subject to a fine as provided in paragraph (b) for each late
1348 day. The fine shall be assessed by the filing officer, and the
1349 moneys collected shall be deposited:
1350 1. In the General Revenue Fund, in the case of an
1351 electioneering communications organization that registers with
1352 the Division of Elections; or
1353 2. In the general revenue fund of the political
1354 subdivision, in the case of an electioneering communications
1355 organization that registers with an officer of a political
1356 subdivision.
1357
1358 No separate fine shall be assessed for failure to file a copy of
1359 any report required by this section.
1360 (b) Upon determining that a report is late, the filing
1361 officer shall immediately notify the electioneering
1362 communications organization as to the failure to file a report
1363 by the designated due date and that a fine is being assessed for

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1364 each late day. The fine shall be $50 per day for the first 3
1365 days late and, thereafter, $500 per day for each late day, not
1366 to exceed 25 percent of the total receipts or expenditures,
1367 whichever is greater, for the period covered by the late report.
1368 However, for the reports immediately preceding each primary and
1369 general election, the fine shall be $500 per day for each late
1370 day, not to exceed 25 percent of the total receipts or
1371 expenditures, whichever is greater, for the period covered by
1372 the late report. Upon receipt of the report, the filing officer
1373 shall determine the amount of the fine which is due and shall
1374 notify the electioneering communications organization. The
1375 filing officer shall determine the amount of the fine due based
1376 upon the earliest of the following:
1377 1. When the report is actually received by such officer.
1378 2. When the report is postmarked.
1379 3. When the certificate of mailing is dated.
1380 4. When the receipt from an established courier company is
1381 dated.
1382 5. When the electronic receipt issued pursuant to s.
1383 106.0705 or other electronic filing system authorized in this
1384 section is dated.
1385
1386 Such fine shall be paid to the filing officer within 20 days
1387 after receipt of the notice of payment due, unless appeal is
1388 made to the Florida Elections Commission pursuant to paragraph
1389 (c). Notice is deemed sufficient upon proof of delivery of
1390 written notice to the mailing or street address on record with
1391 the filing officer. An officer or member of an electioneering
1392 communications organization shall not be personally liable for

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1393 such fine.
1394 (c) The treasurer of an electioneering communications
1395 organization may appeal or dispute the fine, based upon, but not
1396 limited to, unusual circumstances surrounding the failure to
1397 file on the designated due date, and may request and shall be
1398 entitled to a hearing before the Florida Elections Commission,
1399 which shall have the authority to waive the fine in whole or in
1400 part. The Florida Elections Commission must consider the
1401 mitigating and aggravating circumstances contained in s.
1402 106.265(2) when determining the amount of a fine, if any, to be
1403 waived. Any such request shall be made within 20 days after
1404 receipt of the notice of payment due. In such case, the
1405 treasurer of the electioneering communications organization
1406 shall, within the 20-day period, notify the filing officer in
1407 writing of his or her intention to bring the matter before the
1408 commission.
1409 (d) The appropriate filing officer shall notify the Florida
1410 Elections Commission of the repeated late filing by an
1411 electioneering communications organization, the failure of an
1412 electioneering communications organization to file a report
1413 after notice, or the failure to pay the fine imposed. The
1414 commission shall investigate only those alleged late filing
1415 violations specifically identified by the filing officer and as
1416 set forth in the notification. Any other alleged violations must
1417 be stated separately and reported by the division to the
1418 commission under s. 106.25(2).
1419 (8) Electioneering communications organizations shall not
1420 use credit cards.
1421 Section 12. Section 106.0705, Florida Statutes, is

1422 reenacted and amended to read:
1423 106.0705 Electronic filing of campaign treasurer's
1424 reports.—
1425 (1) As used in this section, "electronic filing system"
1426 means an Internet system for recording and reporting campaign
1427 finance activity by reporting period.
1428 (2)(a) Each individual who is required to file reports with
1429 the division pursuant to s. 106.07 or s. 106.141 must file such
1430 reports by means of the division's electronic filing system.
1431 (b) Each political committee, ~~committee of continuous~~
1432 ~~existence,~~ electioneering communications organization,
1433 affiliated party committee, or state executive committee that is
1434 required to file reports with the division under ~~s. 106.04,~~ s.
1435 106.07, s. 106.0703, or s. 106.29, as applicable, must file such
1436 reports with the division by means of the division's electronic
1437 filing system.
1438 (c) Each person or organization that is required to file
1439 reports with the division under s. 106.071 must file such
1440 reports by means of the division's electronic filing system.
1441 (3) Reports filed pursuant to this section shall be
1442 completed and filed through the electronic filing system not
1443 later than midnight of the day designated. Reports not filed by
1444 midnight of the day designated are late filed and are subject to
1445 the penalties under ~~s. 106.04(9),~~ s. 106.07(8), s. 106.0703(7),
1446 or s. 106.29(3), as applicable.
1447 (4) Each report filed pursuant to this section is
1448 considered to be under oath by the candidate and treasurer, the
1449 chair and treasurer, the treasurer under s. 106.0703, or the
1450 leader and treasurer under s. 103.092, whichever is applicable,

1451 and such persons are subject to the provisions of ~~s.~~
1452 ~~106.04(4)(d),~~ s. 106.07(5), s. 106.0703(4), or s. 106.29(2), as
1453 applicable. Persons given a secure sign-on to the electronic
1454 filing system are responsible for protecting such from
1455 disclosure and are responsible for all filings using such
1456 credentials, unless they have notified the division that their
1457 credentials have been compromised.
1458 (5) The electronic filing system developed by the division
1459 must:
1460 (a) Be based on access by means of the Internet.
1461 (b) Be accessible by anyone with Internet access using
1462 standard web-browsing software.
1463 (c) Provide for direct entry of campaign finance
1464 information as well as upload of such information from campaign
1465 finance software certified by the division.
1466 (d) Provide a method that prevents unauthorized access to
1467 electronic filing system functions.
1468 (6) The division shall adopt rules ~~pursuant to ss.~~
1469 ~~120.536(1) and 120.54~~ to administer this section and provide for
1470 the reports required to be filed pursuant to this section. Such
1471 rules shall, at a minimum, provide:
1472 (a) Alternate filing procedures in case the division's
1473 electronic filing system is not operable.
1474 (b) For the issuance of an electronic receipt to the person
1475 submitting the report indicating and verifying that the report
1476 has been filed.
1477 Section 13. Section 106.08, Florida Statutes, is amended to
1478 read:
1479 106.08 Contributions; limitations on.—

1480 (1)(a) Except for political parties or affiliated party
1481 committees, no person or~~,~~ political committee~~, or committee of~~
1482 ~~continuous existence~~ may, in any election, make contributions in
1483 excess of the following amounts: ~~in excess of $500 to any~~
1484 ~~candidate for election to or retention in office or to any~~
1485 ~~political committee supporting or opposing one or more~~
1486 ~~candidates.~~
1487 1. To a candidate for statewide office or for retention as
1488 a justice of the Supreme Court, $3,000. Candidates for the
1489 offices of Governor and Lieutenant Governor on the same ticket
1490 are considered a single candidate for the purpose of this
1491 subparagraph ~~section~~.
1492 2. To a candidate for retention as a judge of a district
1493 court of appeal, $2,000.
1494 3. To a candidate for legislative or multicounty office; a
1495 candidate for countywide office or in any election conducted on
1496 less than a countywide basis; or a candidate for county court
1497 judge or circuit judge, $500.
1498 (b)~~1.~~ The contribution limits provided in this subsection
1499 do not apply to contributions made by a state or county
1500 executive committee of a political party or affiliated party
1501 committee regulated by chapter 103 or to amounts contributed by
1502 a candidate to his or her own campaign.
1503 ~~2. Notwithstanding the limits provided in this subsection,~~
1504 ~~an unemancipated child under the age of 18 years of age may not~~
1505 ~~make a contribution in excess of $100 to any candidate or to any~~
1506 ~~political committee supporting one or more candidates.~~
1507 (c) The contribution limits of this subsection apply to
1508 each election. For purposes of this subsection, the primary

1509 election and general election are separate elections so long as
1510 the candidate is not an unopposed candidate as defined in s.
1511 106.011 ~~106.011(15)~~. However, for the purpose of contribution
1512 limits with respect to candidates for retention as a justice or
1513 judge, there is only one election, which is the general
1514 election.
1515 (2)(a) A candidate may not accept contributions from a
1516 county executive committee of a political party whose
1517 contributions in the aggregate exceed $50,000, or from the
1518 national~~,~~ or state~~, or county~~ executive committees of a
1519 political party, including any subordinate committee of such
1520 political party or affiliated party committees, whose ~~which~~
1521 contributions in the aggregate exceed $50,000.
1522 (b) A candidate for statewide office may not accept
1523 contributions from national, state, or county executive
1524 committees of a political party, including any subordinate
1525 committee of the political party, or affiliated party
1526 committees, which contributions in the aggregate exceed
1527 $250,000. Polling services, research services, costs for
1528 campaign staff, professional consulting services, and telephone
1529 calls are not contributions to be counted toward the
1530 contribution limits of paragraph (a) or this paragraph. Any item
1531 not expressly identified in this paragraph as nonallocable is a
1532 contribution in an amount equal to the fair market value of the
1533 item and must be counted as allocable toward the contribution
1534 limits of paragraph (a) or this paragraph. Nonallocable, in-kind
1535 contributions must be reported by the candidate under s. 106.07
1536 and by the political party or affiliated party committee under
1537 s. 106.29.

1538 (3)(a) Any contribution received by a candidate with
1539 opposition in an election or by the campaign treasurer or a
1540 deputy campaign treasurer of such a candidate on the day of that
1541 election or less than 5 days before ~~prior to~~ the day of that
1542 election must be returned by him or her to the person or
1543 committee contributing it and may not be used or expended by or
1544 on behalf of the candidate.
1545 (b) Any contribution received by a candidate or by the
1546 campaign treasurer or a deputy campaign treasurer of a candidate
1547 after the date at which the candidate withdraws his or her
1548 candidacy, or after the date the candidate is defeated, becomes
1549 unopposed, or is elected to office must be returned to the
1550 person or committee contributing it and may not be used or
1551 expended by or on behalf of the candidate.
1552 (4) Any contribution received by the chair, campaign
1553 treasurer, or deputy campaign treasurer of a political committee
1554 supporting or opposing a candidate with opposition in an
1555 election or supporting or opposing an issue on the ballot in an
1556 election on the day of that election or less than 5 days before
1557 ~~prior to~~ the day of that election may not be obligated or
1558 expended by the committee until after the date of the election.
1559 (5)(a) A person may not make any contribution through or in
1560 the name of another, directly or indirectly, in any election.
1561 (b) Candidates, political committees, affiliated party
1562 committees, and political parties may not solicit contributions
1563 from any religious, charitable, civic, or other causes or
1564 organizations established primarily for the public good.
1565 (c) Candidates, political committees, affiliated party
1566 committees, and political parties may not make contributions, in

1567 exchange for political support, to any religious, charitable,
1568 civic, or other cause or organization established primarily for
1569 the public good. It is not a violation of this paragraph for:
1570 1. A candidate, political committee, affiliated party
1571 committee, or political party executive committee to make gifts
1572 of money in lieu of flowers in memory of a deceased person;
1573 2. A candidate to continue membership in, or make regular
1574 donations from personal or business funds to, religious,
1575 political party, affiliated party committee, civic, or
1576 charitable groups of which the candidate is a member or to which
1577 the candidate has been a regular donor for more than 6 months;
1578 or
1579 3. A candidate to purchase, with campaign funds, tickets,
1580 admission to events, or advertisements from religious, civic,
1581 political party, affiliated party committee, or charitable
1582 groups.
1583 (6)(a) A political party or affiliated party committee may
1584 not accept any contribution that has been specifically
1585 designated for the partial or exclusive use of a particular
1586 candidate. Any contribution so designated must be returned to
1587 the contributor and may not be used or expended by or on behalf
1588 of the candidate. Funds contributed to an affiliated party
1589 committee may ~~shall~~ not be ~~deemed as~~ designated for the partial
1590 or exclusive use of a leader as defined in s. 103.092.
1591 (b)1. A political party or affiliated party committee may
1592 not accept any in-kind contribution that fails to provide a
1593 direct benefit to the political party or affiliated party
1594 committee. A “direct benefit” includes, but is not limited to,
1595 fundraising or furthering the objectives of the political party

1596 or affiliated party committee.
1597 2.a. An in-kind contribution to a state political party may
1598 be accepted only by the chairperson of the state political party
1599 or by the chairperson’s designee or designees whose names are on
1600 file with the division in a form acceptable to the division
1601 before ~~prior to~~ the date of the written notice required in sub-
1602 subparagraph b. An in-kind contribution to a county political
1603 party may be accepted only by the chairperson of the county
1604 political party or by the county chairperson’s designee or
1605 designees whose names are on file with the supervisor of
1606 elections of the respective county before ~~prior to~~ the date of
1607 the written notice required in sub-subparagraph b. An in-kind
1608 contribution to an affiliated party committee may be accepted
1609 only by the leader of the affiliated party committee as defined
1610 in s. 103.092 or by the leader’s designee or designees whose
1611 names are on file with the division in a form acceptable to the
1612 division before ~~prior to~~ the date of the written notice required
1613 in sub-subparagraph b.
1614 b. A person making an in-kind contribution to a state or
1615 county political party or affiliated party committee must
1616 provide prior written notice of the contribution to a person
1617 described in sub-subparagraph a. The prior written notice must
1618 be signed and dated and may be provided by an electronic or
1619 facsimile message. However, prior written notice is not required
1620 for an in-kind contribution that consists of food and beverage
1621 in an aggregate amount not exceeding $1,500 which is consumed at
1622 a single sitting or event if such in-kind contribution is
1623 accepted in advance by a person specified in sub-subparagraph a.
1624 c. A person described in sub-subparagraph a. may accept an

1625 in-kind contribution requiring prior written notice only in a
1626 writing that is dated before the in-kind contribution is made.
1627 Failure to obtain the required written acceptance of an in-kind
1628 contribution to a state or county political party or affiliated
1629 party committee constitutes a refusal of the contribution.
1630 d. A copy of each prior written acceptance required under
1631 sub-subparagraph c. must be filed at the time the regular
1632 reports of contributions and expenditures required under s.
1633 106.29 are filed by the state executive committee, county
1634 executive committee, and affiliated party committee. A state
1635 executive committee and an affiliated party committee must file
1636 with the division. A county executive committee must file with
1637 the county's supervisor of elections.
1638 e. An in-kind contribution may not be given to a state or
1639 county political party or affiliated party committee unless the
1640 in-kind contribution is made as provided in this subparagraph.
1641 (7)(a) Any person who knowingly and willfully makes or
1642 accepts no more than one contribution in violation of subsection
1643 (1) or subsection (5), or any person who knowingly and willfully
1644 fails or refuses to return any contribution as required in
1645 subsection (3), commits a misdemeanor of the first degree,
1646 punishable as provided in s. 775.082 or s. 775.083. If any
1647 corporation, partnership, or other business entity or any
1648 political party, affiliated party committee, political
1649 committee, ~~committee of continuous existence,~~ or electioneering
1650 communications organization is convicted of knowingly and
1651 willfully violating any provision punishable under this
1652 paragraph, it shall be fined not less than $1,000 and not more
1653 than $10,000. If it is a domestic entity, it may be ordered

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1654 dissolved by a court of competent jurisdiction; if it is a
1655 foreign or nonresident business entity, its right to do business
1656 in this state may be forfeited. Any officer, partner, agent,
1657 attorney, or other representative of a corporation, partnership,
1658 or other business entity, or of a political party, affiliated
1659 party committee, political committee, ~~committee of continuous~~
1660 ~~existence,~~ electioneering communications organization, or
1661 organization exempt from taxation under s. 527 or s. 501(c)(4)
1662 of the Internal Revenue Code, who aids, abets, advises, or
1663 participates in a violation of any provision punishable under
1664 this paragraph commits a misdemeanor of the first degree,
1665 punishable as provided in s. 775.082 or s. 775.083.
1666 (b) Any person who knowingly and willfully makes or accepts
1667 two or more contributions in violation of subsection (1) or
1668 subsection (5) commits a felony of the third degree, punishable
1669 as provided in s. 775.082, s. 775.083, or s. 775.084. If any
1670 corporation, partnership, or other business entity or any
1671 political party, affiliated party committee, political
1672 committee, ~~committee of continuous existence,~~ or electioneering
1673 communications organization is convicted of knowingly and
1674 willfully violating any provision punishable under this
1675 paragraph, it shall be fined not less than $10,000 and not more
1676 than $50,000. If it is a domestic entity, it may be ordered
1677 dissolved by a court of competent jurisdiction; if it is a
1678 foreign or nonresident business entity, its right to do business
1679 in this state may be forfeited. Any officer, partner, agent,
1680 attorney, or other representative of a corporation, partnership,
1681 or other business entity, or of a political committee, ~~committee~~
1682 ~~of continuous existence,~~ political party, affiliated party

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1683 committee, or electioneering communications organization, or
1684 organization exempt from taxation under s. 527 or s. 501(c)(4)
1685 of the Internal Revenue Code, who aids, abets, advises, or
1686 participates in a violation of any provision punishable under
1687 this paragraph commits a felony of the third degree, punishable
1688 as provided in s. 775.082, s. 775.083, or s. 775.084.
1689 (8) Except when otherwise provided in subsection (7), any
1690 person who knowingly and willfully violates any provision of
1691 this section shall, in addition to any other penalty prescribed
1692 by this chapter, pay to the state a sum equal to twice the
1693 amount contributed in violation of this chapter. Each campaign
1694 treasurer shall pay all amounts contributed in violation of this
1695 section to the state for deposit in the General Revenue Fund.
1696 (9) This section does not apply to the transfer of funds
1697 between a primary campaign depository and a savings account or
1698 certificate of deposit or to any interest earned on such account
1699 or certificate.
1700 (10) Contributions to a political committee ~~or committee of~~
1701 ~~continuous existence~~ may be received by an affiliated
1702 organization and transferred to the bank account of the
1703 political committee ~~or committee of continuous existence~~ via
1704 check written from the affiliated organization if such
1705 contributions are specifically identified as intended to be
1706 contributed to the political committee ~~or committee of~~
1707 ~~continuous existence~~. All contributions received in this manner
1708 shall be reported pursuant to s. 106.07 by the political
1709 committee ~~or committee of continuous existence~~ as having been
1710 made by the original contributor.
1711 Section 14. Section 106.11, Florida Statutes, is reenacted

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1712 and amended to read:
1713 106.11 Expenses of and expenditures by candidates and
1714 political committees.—Each candidate and each political
1715 committee which designates a primary campaign depository
1716 pursuant to s. 106.021(1) shall make expenditures from funds on
1717 deposit in such primary campaign depository only in the
1718 following manner, with the exception of expenditures made from
1719 petty cash funds provided by s. 106.12:
1720 (1)(a)1. The campaign treasurer or deputy campaign
1721 treasurer of a candidate or political committee shall make
1722 expenditures from funds on deposit in the primary campaign
1723 depository only by means of a bank check drawn upon the campaign
1724 account of the candidate or political committee. The campaign
1725 account shall be separate from any personal or other account and
1726 shall be used only for the purpose of depositing contributions
1727 and making expenditures for the candidate or political
1728 committee.
1729 2. An expenditure by a political committee must also be
1730 primarily related to raising or making a contribution,
1731 influencing the results of an election, making an electioneering
1732 communication, or other political activity authorized by this
1733 chapter. A violation of this subparagraph is punishable solely
1734 as provided in s. 106.19(2).
1735 (b) The checks for such account shall contain, as a
1736 minimum, the following information:
1737 1. The ~~statement "...(~~name of the campaign account of the
1738 candidate or political committee.~~)... Campaign Account."~~
1739 2. The account number and the name of the bank.
1740 3. The exact amount of the expenditure.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1741 4. The signature of the campaign treasurer or deputy
1742 treasurer.
1743 5. The exact purpose for which the expenditure is
1744 authorized.
1745 6. The name of the payee.
1746 (2)(a) For purposes of this section, debit cards are
1747 considered bank checks, if:
1748 1. Debit cards are obtained from the same bank that has
1749 been designated as the candidate's or political committee's
1750 primary campaign depository.
1751 2. Debit cards are issued in the name of the treasurer,
1752 deputy treasurer, or authorized user and contain the ~~state~~
1753 ~~"...(~~name of the campaign account of the candidate or political
1754 committee.~~)... Campaign Account."~~
1755 3. No more than three debit cards are requested and issued.
1756 4. The person using the debit card does not receive cash as
1757 part of, or independent of, any transaction for goods or
1758 services.
1759 5. All receipts for debit card transactions contain:
1760 a. The last four digits of the debit card number.
1761 b. The exact amount of the expenditure.
1762 c. The name of the payee.
1763 d. The signature of the campaign treasurer, deputy
1764 treasurer, or authorized user.
1765 e. The exact purpose for which the expenditure is
1766 authorized.
1767
1768 Any information required by this subparagraph but not included
1769 on the debit card transaction receipt may be handwritten on, or

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1770 attached to, the receipt by the authorized user before
1771 submission to the treasurer.
1772 (b) Debit cards are not subject to the requirements of
1773 paragraph (1)(b).
1774 (3) The campaign treasurer, deputy treasurer, or authorized
1775 user who signs the check shall be responsible for the
1776 completeness and accuracy of the information on such check and
1777 for insuring that such expenditure is an authorized expenditure.
1778 (4) No candidate, campaign manager, treasurer, deputy
1779 treasurer, or political committee or any officer or agent
1780 thereof, or any person acting on behalf of any of the foregoing,
1781 shall authorize any expenses, nor shall any campaign treasurer
1782 or deputy treasurer sign a check drawn on the primary campaign
1783 account for any purpose, unless there are sufficient funds on
1784 deposit in the primary depository account of the candidate or
1785 political committee to pay the full amount of the authorized
1786 expense, to honor all other checks drawn on such account, which
1787 checks are outstanding, and to meet all expenses previously
1788 authorized but not yet paid. However, an expense may be incurred
1789 for the purchase of goods or services if there are sufficient
1790 funds on deposit in the primary depository account to pay the
1791 full amount of the incurred expense, to honor all checks drawn
1792 on such account, which checks are outstanding, and to meet all
1793 other expenses previously authorized but not yet paid, provided
1794 that payment for such goods or services is made upon final
1795 delivery and acceptance of the goods or services; and an
1796 expenditure from petty cash pursuant to the provisions of s.
1797 106.12 may be authorized, if there is a sufficient amount of
1798 money in the petty cash fund to pay for such expenditure.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1799 Payment for credit card purchases shall be made pursuant to s.
1800 106.125. Any expense incurred or authorized in excess of such
1801 funds on deposit shall, in addition to other penalties provided
1802 by law, constitute a violation of this chapter. As used in this
1803 subsection, the term "sufficient funds on deposit in the primary
1804 depository account of the candidate or political committee"
1805 means that the funds at issue have been delivered for deposit to
1806 the financial institution at which such account is maintained.
1807 The term shall not be construed to mean that such funds are
1808 available for withdrawal in accordance with the deposit rules or
1809 the funds availability policies of such financial institution.
1810 (5) A candidate who withdraws his or her candidacy, becomes
1811 an unopposed candidate, or is eliminated as a candidate or
1812 elected to office may expend funds from the campaign account to:
1813 (a) Purchase "thank you" advertising for up to 75 days
1814 after he or she withdraws, becomes unopposed, or is eliminated
1815 or elected.
1816 (b) Pay for items which were obligated before he or she
1817 withdrew, became unopposed, or was eliminated or elected.
1818 (c) Pay for expenditures necessary to close down the
1819 campaign office and to prepare final campaign reports.
1820 (d) Dispose of surplus funds as provided in s. 106.141.
1821 (6) A candidate who makes a loan to his or her campaign and
1822 reports the loan as required by s. 106.07 may be reimbursed for
1823 the loan at any time the campaign account has sufficient funds
1824 to repay the loan and satisfy its other obligations.
1825 Section 15. Section 106.141, Florida Statutes, is amended
1826 to read:
1827 106.141 Disposition of surplus funds by candidates.—

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1828 (1) Except as provided in subsection (6), each candidate
1829 who withdraws his or her candidacy, becomes an unopposed
1830 candidate, or is eliminated as a candidate or elected to office
1831 shall, within 90 days, dispose of the funds on deposit in his or
1832 her campaign account and file a report reflecting the
1833 disposition of all remaining funds. Such candidate may ~~shall~~ not
1834 accept any contributions, nor may ~~shall~~ any person accept
1835 contributions on behalf of such candidate, after the candidate
1836 withdraws his or her candidacy, becomes unopposed, or is
1837 eliminated or elected. However, if a candidate receives a refund
1838 check after all surplus funds have been disposed of, the check
1839 may be endorsed by the candidate and the refund disposed of
1840 under this section. An amended report must be filed showing the
1841 refund and subsequent disposition.
1842 (2) Any candidate required to dispose of funds pursuant to
1843 this section may, before ~~prior to~~ such disposition, be
1844 reimbursed by the campaign, in full or in part, for any reported
1845 contributions by the candidate to the campaign.
1846 (3) The campaign treasurer of a candidate who withdraws his
1847 or her candidacy, becomes unopposed, or is eliminated as a
1848 candidate or elected to office and who has funds on deposit in a
1849 separate interest-bearing account or certificate of deposit
1850 shall, within 7 days after the date of becoming unopposed or the
1851 date of such withdrawal, elimination, or election, transfer such
1852 funds and the accumulated interest earned thereon to the
1853 campaign account of the candidate for disposal under this
1854 section. However, if the funds are in an account in which
1855 penalties will apply for withdrawal within the 7-day period, the
1856 campaign treasurer shall transfer such funds and the accumulated

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1857 interest earned thereon as soon as the funds can be withdrawn
1858 without penalty, or within 90 days after the candidate becomes
1859 unopposed, withdraws his or her candidacy, or is eliminated or
1860 elected, whichever comes first.
1861 (4)(a) Except as provided in paragraph (b), any candidate
1862 required to dispose of funds pursuant to this section shall, at
1863 the option of the candidate, dispose of such funds by any of the
1864 following means, or any combination thereof:
1865 1. Return pro rata to each contributor the funds that have
1866 not been spent or obligated.
1867 2. Donate the funds that have not been spent or obligated
1868 to a charitable organization or organizations that meet the
1869 qualifications of s. 501(c)(3) of the Internal Revenue Code.
1870 3. Give not more than $25,000 of the funds that have not
1871 been spent or obligated to the affiliated party committee or
1872 political party of which such candidate is a member.
1873 4. Give the funds that have not been spent or obligated:
1874 a. In the case of a candidate for state office, to the
1875 state, to be deposited in either the Election Campaign Financing
1876 Trust Fund or the General Revenue Fund, as designated by the
1877 candidate; or
1878 b. In the case of a candidate for an office of a political
1879 subdivision, to such political subdivision, to be deposited in
1880 the general fund thereof.
1881 (b) Any candidate required to dispose of funds pursuant to
1882 this section who has received contributions pursuant to the
1883 Florida Election Campaign Financing Act shall, after all
1884 monetary commitments pursuant to s. 106.11(5)(b) and (c) have
1885 been met, return all surplus campaign funds to the General

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1886 Revenue Fund.
1887 (5) A candidate elected to office or a candidate who will
1888 be elected to office by virtue of his or her being unopposed
1889 may, in addition to the disposition methods provided in
1890 subsection (4), transfer from the campaign account to an office
1891 account any amount of the funds on deposit in such campaign
1892 account up to:
1893 (a) Fifty ~~Twenty~~ thousand dollars, for a candidate for
1894 statewide office. The Governor and Lieutenant Governor shall be
1895 considered separate candidates for the purpose of this section.
1896 (b) Ten ~~Five~~ thousand dollars, for a candidate for
1897 multicounty office.
1898 (c) Ten ~~Five~~ thousand dollars multiplied by the number of
1899 years in the term of office for which elected, for a candidate
1900 for legislative office.
1901 (d) Five thousand ~~Two thousand five hundred~~ dollars
1902 multiplied by the number of years in the term of office for
1903 which elected, for a candidate for county office or for a
1904 candidate in any election conducted on less than a countywide
1905 basis.
1906 (e) Six thousand dollars, for a candidate for retention as
1907 a justice of the Supreme Court.
1908 (f) Three thousand dollars, for a candidate for retention
1909 as a judge of a district court of appeal.
1910 (g) Three thousand ~~One thousand five hundred~~ dollars, for a
1911 candidate for county court judge or circuit judge.
1912
1913 The office account established pursuant to this subsection shall
1914 be separate from any personal or other account. Any funds so

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1915 transferred by a candidate shall be used only for legitimate
1916 expenses in connection with the candidate's public office. Such
1917 expenses may include travel expenses incurred by the officer or
1918 a staff member;~~,~~ personal taxes payable on office account funds
1919 by the candidate or elected public official; professional
1920 services provided by a certified public accountant or attorney
1921 for preparation of the elected public official's financial
1922 disclosure filing pursuant to s. 112.3144 or s. 112.3145; costs
1923 to prepare, print, produce, and mail holiday cards or
1924 newsletters about the elected public official's public business
1925 to constituents, if such correspondence does not constitute a
1926 political advertisement, independent expenditure, or
1927 electioneering communication as provided in s. 106.011; fees or
1928 dues to religious, civic, or charitable organizations of which
1929 the elected public official is a member; items of modest value
1930 such as flowers, greeting cards, or personal notes given as a
1931 substitute for, or in association with, an elected public
1932 official's personal attendance at a constituent's special event
1933 or family occasion, such as the birth of a child, graduation,
1934 wedding, or funeral; personal expenses incurred by the elected
1935 public official in connection with attending a constituent
1936 meeting or event where public policy is discussed, if such
1937 meetings or events are limited to no more than once a week;~~,~~ or
1938 expenses incurred in the operation of the elected public
1939 official's ~~his or her~~ office, including the employment of
1940 additional staff. The funds may be deposited in a savings
1941 account; however, all deposits, withdrawals, and interest earned
1942 thereon shall be reported at the appropriate reporting period.
1943 If a candidate is reelected to office or elected to another

1944 office and has funds remaining in his or her office account, he
1945 or she may transfer surplus campaign funds to the office
1946 account. At no time may the funds in the office account exceed
1947 the limitation imposed by this subsection. Upon leaving public
1948 office, any person who has funds in an office account pursuant
1949 to this subsection remaining on deposit shall give such funds to
1950 a charitable organization that meets ~~or organizations which meet~~
1951 the requirements of s. 501(c)(3) of the Internal Revenue Code
1952 or, in the case of a state officer, to the state to be deposited
1953 in the General Revenue Fund or, in the case of an officer of a
1954 political subdivision, to the political subdivision to be
1955 deposited in the general fund thereof.
1956 (6)(a) For purposes of this subsection, the term "same
1957 office" with respect to legislative office means an office in
1958 the same legislative body, irrespective of district number or
1959 designation or geographic boundary.
1960 (b) A candidate elected to state office or a candidate who
1961 will be elected to state office by virtue of his or her being
1962 unopposed after candidate qualifying ends, may retain up to
1963 $20,000 in his or her campaign account, or in an interest-
1964 bearing account or certificate of deposit, for use in his or her
1965 next campaign for the same office, in addition to the
1966 disposition methods provided in subsections (4) and (5). All
1967 requirements applicable to candidate campaign accounts under
1968 this chapter, including disclosure requirements applicable to
1969 candidate campaign accounts, limitations on expenditures, and
1970 limitations on contributions, apply to any retained funds.
1971 (c) If a candidate who has retained funds under this
1972 subsection does not qualify as a candidate for reelection to the

1973 same office, all retained funds shall be disposed of as
1974 otherwise required by this section or s. 106.11(5) within 90
1975 days after the last day of candidate qualifying for that office.
1976 Requirements in this section applicable to the disposal of
1977 surplus funds, including reporting requirements, are applicable
1978 to the disposal of retained funds.
1979 (7)~~(6)~~ Before ~~Prior to~~ disposing of funds pursuant to
1980 subsection (4), ~~or~~ transferring funds into an office account
1981 pursuant to subsection (5), or retaining funds for reelection
1982 pursuant to subsection (6), any candidate who filed an oath
1983 stating that he or she was unable to pay the ~~election assessment~~
1984 ~~or~~ fee for verification of petition signatures without imposing
1985 an undue burden on his or her personal resources or on resources
1986 otherwise available to him or her~~, or who filed both such oaths,~~
1987 ~~or who qualified by the petition process and was not required to~~
1988 ~~pay an election assessment,~~ shall reimburse the state or local
1989 governmental entity, whichever is applicable, for such waived
1990 ~~assessment or~~ fee ~~or both~~. ~~Such reimbursement shall be made~~
1991 ~~first for the cost of petition verification and then, if funds~~
1992 ~~are remaining, for the amount of the election assessment.~~ If
1993 there are insufficient funds in the account to pay the full
1994 amount of ~~either the assessment or~~ the fee ~~or both~~, the
1995 remaining funds shall be disbursed in the above manner until no
1996 funds remain. All funds disbursed pursuant to this subsection
1997 shall be remitted to the qualifying officer. Any reimbursement
1998 for petition verification costs which are reimbursable by the
1999 state shall be forwarded by the qualifying officer to the state
2000 for deposit in the General Revenue Fund. ~~All reimbursements for~~
2001 ~~the amount of the election assessment shall be forwarded by the~~

2002 ~~qualifying officer to the Department of State for deposit in the~~
2003 ~~General Revenue Fund.~~
2004 (8)(a)~~(7)(a)~~ Any candidate required to dispose of campaign
2005 funds pursuant to this section shall do so within the time
2006 required by this section and ~~shall~~, on or before the date by
2007 which such disposition is to have been made, shall file with the
2008 officer with whom reports are required to be filed pursuant to
2009 s. 106.07 a form prescribed by the Division of Elections
2010 listing:
2011 1. The name and address of each person or unit of
2012 government to whom any of the funds were distributed and the
2013 amounts thereof;
2014 2. The name and address of each person to whom an
2015 expenditure was made, together with the amount thereof and
2016 purpose therefor; ~~and~~
2017 3. The amount of such funds transferred to an office
2018 account by the candidate, together with the name and address of
2019 the bank, savings and loan association, or credit union in which
2020 the office account is located; and
2021 4. The amount of such funds retained pursuant to subsection
2022 (6), together with the name and address of the bank, savings and
2023 loan association, or credit union in which the retained funds
2024 are located.
2025
2026 Such report shall be signed by the candidate and the campaign
2027 treasurer and certified as true and correct pursuant to s.
2028 106.07.
2029 (b) The filing officer shall notify each candidate at least
2030 14 days before the date the report is due.

2031 (c) Any candidate failing to file a report on the
2032 designated due date shall be subject to a fine as provided in s.
2033 106.07 for submitting late termination reports.
2034 (9)~~(8)~~ Any candidate elected to office who transfers
2035 surplus campaign funds into an office account pursuant to
2036 subsection (5) shall file a report on the 10th day following the
2037 end of each calendar quarter until the account is closed. Such
2038 reports shall contain the name and address of each person to
2039 whom any disbursement of funds was made, together with the
2040 amount thereof and the purpose therefor, and the name and
2041 address of any person from whom the elected candidate received
2042 any refund or reimbursement and the amount thereof. Such reports
2043 shall be on forms prescribed by the Division of Elections,
2044 signed by the elected candidate, certified as true and correct,
2045 and filed with the officer with whom campaign reports were filed
2046 pursuant to s. 106.07(2).
2047 (10)~~(9)~~ Any candidate, or any person on behalf of a
2048 candidate, who accepts contributions after such candidate has
2049 withdrawn his or her candidacy, after the candidate has become
2050 an unopposed candidate, or after the candidate has been
2051 eliminated as a candidate or elected to office commits a
2052 misdemeanor of the first degree, punishable as provided in s.
2053 775.082 or s. 775.083.
2054 (11)~~(10)~~ Any candidate who is required by the provisions of
2055 this section to dispose of funds in his or her campaign account
2056 and who fails to dispose of the funds in the manner provided in
2057 this section commits a misdemeanor of the first degree,
2058 punishable as provided in s. 775.082 or s. 775.083.
2059 Section 16. Section 106.29, Florida Statutes, is reenacted

2060 and amended to read:
2061 106.29 Reports by political parties and affiliated party
2062 committees; restrictions on contributions and expenditures;
2063 penalties.—
2064 (1)(a) The state executive committee and each county
2065 executive committee of each political party and any affiliated
2066 party committee regulated by chapter 103 shall file regular
2067 reports of all contributions received and all expenditures made
2068 by such committee. However, the reports may ~~shall~~ not include
2069 contributions and expenditures that are reported to the Federal
2070 Election Commission.
2071 (b) Each state executive committee and affiliated party
2072 committee shall file regular reports with the Division of
2073 Elections. Such reports must contain the same information as
2074 reports required of candidates by s. 106.07 and must be filed at
2075 the same times and subject to the same filing conditions
2076 established by s. 106.07(1) and (2) for statewide candidate
2077 reports filed with the division. Each county executive committee
2078 shall file reports with the supervisor of elections in the
2079 county in which such committee exists. Such reports must contain
2080 the same information as reports required of candidates by s.
2081 106.07 and must be filed at the same times and subject to the
2082 same filing conditions established by s. 106.07(1) and (2) for
2083 county candidate reports filed with the supervisor of elections.
2084 In addition, when a special election is called to fill a vacancy
2085 in office, each state executive committee, each affiliated party
2086 committee, and each county executive committee making
2087 contributions or expenditures to influence the results of the
2088 special election or the preceding special primary election must

2089 file campaign treasurers' reports on the dates set by the
2090 Department of State pursuant to s. 100.111. ~~Such reports shall~~
2091 ~~contain the same information as do reports required of~~
2092 ~~candidates by s. 106.07 and shall be filed on the 10th day~~
2093 ~~following the end of each calendar quarter, except that, during~~
2094 ~~the period from the last day for candidate qualifying until the~~
2095 ~~general election, such reports shall be filed on the Friday~~
2096 ~~immediately preceding each special primary election, special~~
2097 ~~election, primary election, and general election.~~
2098 (c) In addition to the reports filed under this section,
2099 the state executive committee, each county executive committee,
2100 and each affiliated party committee shall file a copy of each
2101 prior written acceptance of an in-kind contribution given by the
2102 committee during the preceding calendar quarter as required
2103 under s. 106.08(6). ~~Each state executive committee and~~
2104 ~~affiliated party committee shall file its reports with the~~
2105 ~~Division of Elections. Each county executive committee shall~~
2106 ~~file its reports with the supervisor of elections in the county~~
2107 ~~in which such committee exists.~~
2108 (d) Any state or county executive committee or affiliated
2109 party committee failing to file a report on the designated due
2110 date is ~~shall be~~ subject to a fine as provided in subsection
2111 (3). A ~~No~~ separate fine may not ~~shall~~ be assessed for failure to
2112 file a copy of any report required by this section.
2113 (2) The chair and treasurer of each state or county
2114 executive committee shall certify as to the correctness of each
2115 report filed by them on behalf of such committee. The leader and
2116 treasurer of each affiliated party committee under s. 103.092
2117 shall certify as to the correctness of each report filed by them

2118 on behalf of such committee. Any committee chair, leader, or
2119 treasurer who certifies the correctness of any report while
2120 knowing that such report is incorrect, false, or incomplete
2121 commits a felony of the third degree, punishable as provided in
2122 s. 775.082, s. 775.083, or s. 775.084.
2123 (3)(a) A ~~Any~~ state or county executive committee or
2124 affiliated party committee that fails ~~failing~~ to file a report
2125 on the designated due date is ~~shall be~~ subject to a fine as
2126 provided in paragraph (b) for each late day. The fine shall be
2127 assessed by the filing officer, and the moneys collected shall
2128 be deposited in the General Revenue Fund.
2129 (b) Upon determining that a report is late, the filing
2130 officer shall immediately notify the chair of the executive
2131 committee or the leader of the affiliated party committee as
2132 defined in s. 103.092 as to the failure to file a report by the
2133 designated due date and that a fine is being assessed for each
2134 late day. The fine is ~~shall be~~ $1,000 for a state executive
2135 committee, $1,000 for an affiliated party committee, and $50 for
2136 a county executive committee, per day for each late day, not to
2137 exceed 25 percent of the total receipts or expenditures,
2138 whichever is greater, for the period covered by the late report.
2139 However, if an executive committee or an affiliated party
2140 committee fails to file a report on the Friday immediately
2141 preceding the special election or general election, the fine is
2142 ~~shall be~~ $10,000 per day for each day a state executive
2143 committee is late, $10,000 per day for each day an affiliated
2144 party committee is late, and $500 per day for each day a county
2145 executive committee is late. Upon receipt of the report, the
2146 filing officer shall determine the amount of the fine which is

2147 due and shall notify the chair or leader as defined in s.
2148 103.092. Notice is deemed complete upon proof of delivery of
2149 written notice to the mailing or street address on record with
2150 the filing officer. The filing officer shall determine the
2151 amount of the fine due based upon the earliest of the following:
2152 1. When the report is actually received by such officer.
2153 2. When the report is postmarked.
2154 3. When the certificate of mailing is dated.
2155 4. When the receipt from an established courier company is
2156 dated.
2157 5. When the electronic receipt issued pursuant to s.
2158 106.0705 is dated.
2159
2160 Such fine shall be paid to the filing officer within 20 days
2161 after receipt of the notice of payment due, unless appeal is
2162 made to the Florida Elections Commission pursuant to paragraph
2163 (c). An officer or member of an executive committee is not ~~shall~~
2164 ~~not be~~ personally liable for such fine.
2165 (c) The chair of an executive committee or the leader of an
2166 affiliated party committee as defined in s. 103.092 may appeal
2167 or dispute the fine, based upon unusual circumstances
2168 surrounding the failure to file on the designated due date, and
2169 may request and is ~~shall be~~ entitled to a hearing before the
2170 Florida Elections Commission, which has ~~shall have~~ the authority
2171 to waive the fine in whole or in part. Any such request shall be
2172 made within 20 days after receipt of the notice of payment due.
2173 In such case, the chair of the executive committee or the leader
2174 of the affiliated party committee as defined in s. 103.092
2175 shall, within the 20-day period, notify the filing officer in

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2176 writing of his or her intention to bring the matter before the
2177 commission.
2178 (d) The appropriate filing officer shall notify the Florida
2179 Elections Commission of the repeated late filing by an executive
2180 committee or affiliated party committee, the failure of an
2181 executive committee or affiliated party committee to file a
2182 report after notice, or the failure to pay the fine imposed.
2183 (4) Any contribution received by a state or county
2184 executive committee or affiliated party committee less than 5
2185 days before an election may ~~shall~~ not be used or expended in
2186 behalf of any candidate, issue, affiliated party committee, or
2187 political party participating in such election.
2188 (5) A ~~No~~ state or county executive committee or affiliated
2189 party committee, in the furtherance of any candidate or
2190 political party, directly or indirectly, may not ~~shall~~ give,
2191 pay, or expend any money, give or pay anything of value,
2192 authorize any expenditure, or become pecuniarily liable for any
2193 expenditure prohibited by this chapter. However, the
2194 contribution of funds by one executive committee to another or
2195 to established party organizations for legitimate party or
2196 campaign purposes is not prohibited, but all such contributions
2197 shall be recorded and accounted for in the reports of the
2198 contributor and recipient.
2199 (6)(a) The national, state, and county executive committees
2200 of a political party and affiliated party committees may not
2201 contribute to any candidate any amount in excess of the limits
2202 contained in s. 106.08(2), and all contributions required to be
2203 reported under s. 106.08(2) by the national executive committee
2204 of a political party shall be reported by the state executive

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2205 committee of that political party.
2206 (b) A violation of the contribution limits contained in s.
2207 106.08(2) is a misdemeanor of the first degree, punishable as
2208 provided in s. 775.082 or s. 775.083. A civil penalty equal to
2209 three times the amount in excess of the limits contained in s.
2210 106.08(2) shall be assessed against any executive committee
2211 found in violation thereof.
2212 Section 17. By December 1, 2013, the Division of Elections
2213 shall submit a proposal to the President of the Senate and the
2214 Speaker of the House of Representatives for a mandatory
2215 statewide electronic filing system for all state and local
2216 campaign filings required by s. 106.07, s. 106.0703, or s.
2217 106.29.
2218 Section 18. Subsection (3) of section 101.62, Florida
2219 Statutes, is amended to read:
2220 101.62 Request for absentee ballots.—
2221 (3) For each request for an absentee ballot received, the
2222 supervisor shall record the date the request was made, the date
2223 the absentee ballot was delivered to the voter or the voter's
2224 designee or the date the absentee ballot was delivered to the
2225 post office or other carrier, the date the ballot was received
2226 by the supervisor, and such other information he or she may deem
2227 necessary. This information shall be provided in electronic
2228 format as provided by rule adopted by the division. The
2229 information shall be updated and made available no later than 8
2230 a.m. of each day, including weekends, beginning 60 days before
2231 the primary until 15 days after the general election and shall
2232 be contemporaneously provided to the division. This information
2233 shall be confidential and exempt from the provisions of s.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2234 119.07(1) and shall be made available to or reproduced only for
2235 the voter requesting the ballot, a canvassing board, an election
2236 official, a political party or official thereof, a candidate who
2237 has filed qualification papers and is opposed in an upcoming
2238 election, and registered political committees ~~or registered~~
2239 ~~committees of continuous existence~~, for political purposes only.
2240 Section 19. Paragraph (a) of subsection (4) of section
2241 102.031, Florida Statutes, is amended to read:
2242 102.031 Maintenance of good order at polls; authorities;
2243 persons allowed in polling rooms and early voting areas;
2244 unlawful solicitation of voters.—
2245 (4)(a) No person, political committee, ~~committee of~~
2246 ~~continuous existence,~~ or other group or organization may solicit
2247 voters inside the polling place or within 100 feet of the
2248 entrance to any polling place, or polling room where the polling
2249 place is also a polling room, or early voting site. Before the
2250 opening of the polling place or early voting site, the clerk or
2251 supervisor shall designate the no-solicitation zone and mark the
2252 boundaries.
2253 Section 20. Subsection (2) of section 106.087, Florida
2254 Statutes, is amended to read:
2255 106.087 Independent expenditures; contribution limits;
2256 restrictions on political parties and~~,~~ political committees~~, and~~
2257 ~~committees of continuous existence~~.—
2258 (2)(a) Any political committee ~~or committee of continuous~~
2259 ~~existence~~ that accepts the use of public funds, equipment,
2260 personnel, or other resources to collect dues from its members
2261 agrees not to make independent expenditures in support of or
2262 opposition to a candidate or elected public official. However,

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2263 expenditures may be made for the sole purpose of jointly
2264 endorsing three or more candidates.
2265 (b) Any political committee ~~or committee of continuous~~
2266 ~~existence~~ that violates this subsection is liable for a civil
2267 fine of up to $5,000 to be determined by the Florida Elections
2268 Commission or the entire amount of the expenditures, whichever
2269 is greater.
2270 Section 21. Subsection (3) of section 106.12, Florida
2271 Statutes, is amended to read:
2272 106.12 Petty cash funds allowed.—
2273 (3) The petty cash fund so provided may ~~shall~~ be spent only
2274 in amounts less than $100 and only for office supplies,
2275 transportation expenses, and other necessities. Petty cash may
2276 ~~shall~~ not be used for the purchase of time, space, or services
2277 from communications media as defined in s. 106.011 ~~106.011(13)~~.
2278 Section 22. Paragraph (b) of subsection (3) of section
2279 106.147, Florida Statutes, is amended to read:
2280 106.147 Telephone solicitation; disclosure requirements;
2281 prohibitions; exemptions; penalties.—
2282 (3)
2283 (b) For purposes of paragraph (a), the term "person"
2284 includes any candidate; any officer of any political committee,
2285 ~~committee of continuous existence,~~ affiliated party committee,
2286 or political party executive committee; any officer, partner,
2287 attorney, or other representative of a corporation, partnership,
2288 or other business entity; and any agent or other person acting
2289 on behalf of any candidate, political committee, ~~committee of~~
2290 ~~continuous existence,~~ affiliated party committee, political
2291 party executive committee, or corporation, partnership, or other

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2292 business entity.
2293 Section 23. Section 106.17, Florida Statutes, is amended to
2294 read:
2295 106.17 Polls and surveys relating to candidacies.—Any
2296 candidate, political committee, ~~committee of continuous~~
2297 ~~existence,~~ electioneering communication organization, affiliated
2298 party committee, or state or county executive committee of a
2299 political party may authorize or conduct a political poll,
2300 survey, index, or measurement of any kind relating to candidacy
2301 for public office so long as the candidate, political committee,
2302 ~~committee of continuous existence,~~ electioneering communication
2303 organization, affiliated party committee, or political party
2304 maintains complete jurisdiction over the poll in all its
2305 aspects. State and county executive committees of a political
2306 party or an affiliated party committee may authorize and conduct
2307 political polls for the purpose of determining the viability of
2308 potential candidates. Such poll results may be shared with
2309 potential candidates, and expenditures incurred by state and
2310 county executive committees or an affiliated party committee for
2311 potential candidate polls are not contributions to the potential
2312 candidates.
2313 Section 24. Subsection (2) of section 106.23, Florida
2314 Statutes, is amended to read:
2315 106.23 Powers of the Division of Elections.—
2316 (2) The Division of Elections shall provide advisory
2317 opinions when requested by any supervisor of elections,
2318 candidate, local officer having election-related duties,
2319 political party, affiliated party committee, political
2320 committee, ~~committee of continuous existence,~~ or other person or

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2321 organization engaged in political activity, relating to any
2322 provisions or possible violations of Florida election laws with
2323 respect to actions such supervisor, candidate, local officer
2324 having election-related duties, political party, affiliated
2325 party committee, committee, person, or organization has taken or
2326 proposes to take. Requests for advisory opinions must be
2327 submitted in accordance with rules adopted by the Department of
2328 State. A written record of all such opinions issued by the
2329 division, sequentially numbered, dated, and indexed by subject
2330 matter, shall be retained. A copy shall be sent to said person
2331 or organization upon request. Any such person or organization,
2332 acting in good faith upon such an advisory opinion, shall not be
2333 subject to any criminal penalty provided for in this chapter.
2334 The opinion, until amended or revoked, shall be binding on any
2335 person or organization who sought the opinion or with reference
2336 to whom the opinion was sought, unless material facts were
2337 omitted or misstated in the request for the advisory opinion.
2338 Section 25. Subsections (2) and (3) of section 106.265,
2339 Florida Statutes, are amended to read:
2340 106.265 Civil penalties.—
2341 (2) In determining the amount of such civil penalties, the
2342 commission or administrative law judge shall consider, among
2343 other mitigating and aggravating circumstances:
2344 (a) The gravity of the act or omission;
2345 (b) Any previous history of similar acts or omissions;
2346 (c) The appropriateness of such penalty to the financial
2347 resources of the person, political committee, ~~committee of~~
2348 ~~continuous existence,~~ affiliated party committee, electioneering
2349 communications organization, or political party; and

2350 (d) Whether the person, political committee, ~~committee of~~
2351 ~~continuous existence,~~ affiliated party committee, electioneering
2352 communications organization, or political party has shown good
2353 faith in attempting to comply with the provisions of this
2354 chapter or chapter 104.
2355 (3) If any person, political committee, ~~committee of~~
2356 ~~continuous existence,~~ affiliated party committee, electioneering
2357 communications organization, or political party fails or refuses
2358 to pay to the commission any civil penalties assessed pursuant
2359 to the provisions of this section, the commission shall be
2360 responsible for collecting the civil penalties resulting from
2361 such action.
2362 Section 26. Subsection (2) of section 106.27, Florida
2363 Statutes, is amended to read:
2364 106.27 Determinations by commission; legal disposition.—
2365 (2) Civil actions may be brought by the commission for
2366 relief, including permanent or temporary injunctions,
2367 restraining orders, or any other appropriate order for the
2368 imposition of civil penalties provided by this chapter. Such
2369 civil actions shall be brought by the commission in the
2370 appropriate court of competent jurisdiction, and the venue shall
2371 be in the county in which the alleged violation occurred or in
2372 which the alleged violator or violators are found, reside, or
2373 transact business. Upon a proper showing that such person,
2374 political committee, ~~committee of continuous existence,~~
2375 affiliated party committee, or political party has engaged, or
2376 is about to engage, in prohibited acts or practices, a permanent
2377 or temporary injunction, restraining order, or other order shall
2378 be granted without bond by such court, and the civil fines

2379 provided by this chapter may be imposed.
2380 Section 27. Subsection (3) of section 106.32, Florida
2381 Statutes, is amended to read:
2382 106.32 Election Campaign Financing Trust Fund.—
2383 (3) Proceeds from assessments pursuant to ss. ~~106.04,~~
2384 106.07~~,~~ and 106.29 shall be deposited into the Election Campaign
2385 Financing Trust Fund as designated in those sections.
2386 Section 28. Section 106.33, Florida Statutes, is amended to
2387 read:
2388 106.33 Election campaign financing; eligibility.—Each
2389 candidate for the office of Governor or member of the Cabinet
2390 who desires to receive contributions from the Election Campaign
2391 Financing Trust Fund ~~shall~~, upon qualifying for office, shall
2392 file a request for such contributions with the filing officer on
2393 forms provided by the Division of Elections. If a candidate
2394 requesting contributions from the fund desires to have such
2395 funds distributed by electronic fund transfers, the request
2396 shall include information necessary to implement that procedure.
2397 For the purposes of ss. 106.30-106.36, the respective candidates
2398 running for Governor and Lieutenant Governor on the same ticket
2399 shall be considered as a single candidate. To be eligible to
2400 receive contributions from the fund, a candidate may not be an
2401 unopposed candidate as defined in s. 106.011 ~~106.011(15)~~ and
2402 must:
2403 (1) Agree to abide by the expenditure limits provided in s.
2404 106.34.
2405 (2)(a) Raise contributions as follows:
2406 1. One hundred fifty thousand dollars for a candidate for
2407 Governor.

2408 2. One hundred thousand dollars for a candidate for Cabinet
2409 office.
2410 (b) Contributions from individuals who at the time of
2411 contributing are not state residents may not be used to meet the
2412 threshold amounts in paragraph (a). For purposes of this
2413 paragraph, any person validly registered to vote in this state
2414 shall be considered a state resident.
2415 (3) Limit loans or contributions from the candidate's
2416 personal funds to $25,000 and contributions from national,
2417 state, and county executive committees of a political party to
2418 $250,000 in the aggregate, which loans or contributions do ~~shall~~
2419 not qualify for meeting the threshold amounts in subsection (2).
2420 (4) Submit to a postelection audit of the campaign account
2421 by the division.
2422 Section 29. Section 111.075, Florida Statutes, is amended
2423 to read:
2424 111.075 Elected officials; prohibition concerning certain
2425 committees.—Elected officials are prohibited from being employed
2426 by, or acting as a consultant for compensation to, a political
2427 committee ~~or committee of continuous existence~~.
2428 Section 30. Subsections (3) and (4) and paragraph (a) of
2429 subsection (5) of section 112.3148, Florida Statutes, are
2430 amended to read:
2431 112.3148 Reporting and prohibited receipt of gifts by
2432 individuals filing full or limited public disclosure of
2433 financial interests and by procurement employees.—
2434 (3) A reporting individual or procurement employee is
2435 prohibited from soliciting any gift from a political committee
2436 ~~or committee of continuous existence~~, as defined in s. 106.011,

2437 or from a lobbyist who lobbies the reporting individual's or
2438 procurement employee's agency, or the partner, firm, employer,
2439 or principal of such lobbyist, where such gift is for the
2440 personal benefit of the reporting individual or procurement
2441 employee, another reporting individual or procurement employee,
2442 or any member of the immediate family of a reporting individual
2443 or procurement employee.
2444 (4) A reporting individual or procurement employee or any
2445 other person on his or her behalf is prohibited from knowingly
2446 accepting, directly or indirectly, a gift from a political
2447 committee ~~or committee of continuous existence~~, as defined in s.
2448 106.011, or from a lobbyist who lobbies the reporting
2449 individual's or procurement employee's agency, or directly or
2450 indirectly on behalf of the partner, firm, employer, or
2451 principal of a lobbyist, if he or she knows or reasonably
2452 believes that the gift has a value in excess of $100; however,
2453 such a gift may be accepted by such person on behalf of a
2454 governmental entity or a charitable organization. If the gift is
2455 accepted on behalf of a governmental entity or charitable
2456 organization, the person receiving the gift shall not maintain
2457 custody of the gift for any period of time beyond that
2458 reasonably necessary to arrange for the transfer of custody and
2459 ownership of the gift.
2460 (5)(a) A political committee ~~or a committee of continuous~~
2461 ~~existence~~, as defined in s. 106.011; a lobbyist who lobbies a
2462 reporting individual's or procurement employee's agency; the
2463 partner, firm, employer, or principal of a lobbyist; or another
2464 on behalf of the lobbyist or partner, firm, principal, or
2465 employer of the lobbyist is prohibited from giving, either

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2466 directly or indirectly, a gift that has a value in excess of
2467 $100 to the reporting individual or procurement employee or any
2468 other person on his or her behalf; however, such person may give
2469 a gift having a value in excess of $100 to a reporting
2470 individual or procurement employee if the gift is intended to be
2471 transferred to a governmental entity or a charitable
2472 organization.
2473 Section 31. Subsections (3) and (4) of section 112.3149,
2474 Florida Statutes, are amended to read:
2475 112.3149 Solicitation and disclosure of honoraria.—
2476 (3) A reporting individual or procurement employee is
2477 prohibited from knowingly accepting an honorarium from a
2478 political committee ~~or committee of continuous existence~~, as
2479 defined in s. 106.011, from a lobbyist who lobbies the reporting
2480 individual's or procurement employee's agency, or from the
2481 employer, principal, partner, or firm of such a lobbyist.
2482 (4) A political committee ~~or committee of continuous~~
2483 ~~existence~~, as defined in s. 106.011, a lobbyist who lobbies a
2484 reporting individual's or procurement employee's agency, or the
2485 employer, principal, partner, or firm of such a lobbyist is
2486 prohibited from giving an honorarium to a reporting individual
2487 or procurement employee.
2488 Section 32. Subsection (4) of section 1004.28, Florida
2489 Statutes, is amended to read:
2490 1004.28 Direct-support organizations; use of property;
2491 board of directors; activities; audit; facilities.—
2492 (4) ACTIVITIES; RESTRICTION.—A university direct-support
2493 organization is prohibited from giving, either directly or
2494 indirectly, any gift to a political committee ~~or committee of~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2495 ~~continuous existence~~ as defined in s. 106.011 for any purpose
2496 other than those certified by a majority roll call vote of the
2497 governing board of the direct-support organization at a
2498 regularly scheduled meeting as being directly related to the
2499 educational mission of the university.
2500 Section 33. Paragraph (d) of subsection (4) of section
2501 1004.70, Florida Statutes, is amended to read:
2502 1004.70 Florida College System institution direct-support
2503 organizations.—
2504 (4) ACTIVITIES; RESTRICTIONS.—
2505 (d) A Florida College System institution direct-support
2506 organization is prohibited from giving, either directly or
2507 indirectly, any gift to a political committee ~~or committee of~~
2508 ~~continuous existence~~ as defined in s. 106.011 for any purpose
2509 other than those certified by a majority roll call vote of the
2510 governing board of the direct-support organization at a
2511 regularly scheduled meeting as being directly related to the
2512 educational mission of the Florida College System institution.
2513 Section 34. Paragraph (c) of subsection (4) of section
2514 1004.71, Florida Statutes, is amended to read:
2515 1004.71 Statewide Florida College System institution
2516 direct-support organizations.—
2517 (4) RESTRICTIONS.—
2518 (c) A statewide Florida College System institution direct-
2519 support organization is prohibited from giving, either directly
2520 or indirectly, any gift to a political committee ~~or committee of~~
2521 ~~continuous existence~~ as defined in s. 106.011 for any purpose
2522 other than those certified by a majority roll call vote of the
2523 governing board of the direct-support organization at a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2524 regularly scheduled meeting as being directly related to the
2525 educational mission of the State Board of Education.
2526 Section 35. For the purpose of incorporating the amendment
2527 made by this act into section 106.08, Florida Statutes, in a
2528 reference thereto, subsection (2) of section 106.075, Florida
2529 Statutes, is reenacted to read:
2530 106.075 Elected officials; report of loans made in year
2531 preceding election; limitation on contributions to pay loans.—
2532 (2) Any person who makes a contribution to an individual to
2533 pay all or part of a loan incurred, in the 12 months preceding
2534 the election, to be used for the individual's campaign, may not
2535 contribute more than the amount which is allowed in s.
2536 106.08(1).
2537 Section 36. For the purpose of incorporating the amendments
2538 made by this act to sections 106.08 and 106.11, Florida
2539 Statutes, in references thereto, section 106.19, Florida
2540 Statutes, is reenacted to read:
2541 106.19 Violations by candidates, persons connected with
2542 campaigns, and political committees.—
2543 (1) Any candidate; campaign manager, campaign treasurer, or
2544 deputy treasurer of any candidate; committee chair, vice chair,
2545 campaign treasurer, deputy treasurer, or other officer of any
2546 political committee; agent or person acting on behalf of any
2547 candidate or political committee; or other person who knowingly
2548 and willfully:
2549 (a) Accepts a contribution in excess of the limits
2550 prescribed by s. 106.08;
2551 (b) Fails to report any contribution required to be
2552 reported by this chapter;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2553 (c) Falsely reports or deliberately fails to include any
2554 information required by this chapter; or
2555 (d) Makes or authorizes any expenditure in violation of s.
2556 106.11(4) or any other expenditure prohibited by this chapter;
2557
2558 is guilty of a misdemeanor of the first degree, punishable as
2559 provided in s. 775.082 or s. 775.083.
2560 (2) Any candidate, campaign treasurer, or deputy treasurer;
2561 any chair, vice chair, or other officer of any political
2562 committee; any agent or person acting on behalf of any candidate
2563 or political committee; or any other person who violates
2564 paragraph (1)(a), paragraph (1)(b), or paragraph (1)(d) shall be
2565 subject to a civil penalty equal to three times the amount
2566 involved in the illegal act. Such penalty may be in addition to
2567 the penalties provided by subsection (1) and shall be paid into
2568 the General Revenue Fund of this state.
2569 (3) A political committee sponsoring a constitutional
2570 amendment proposed by initiative which submits a petition form
2571 gathered by a paid petition circulator which does not provide
2572 the name and address of the paid petition circulator on the form
2573 is subject to the civil penalties prescribed in s. 106.265.
2574 (4) Except as otherwise expressly stated, the failure by a
2575 candidate to comply with the requirements of this chapter has no
2576 effect upon whether the candidate has qualified for the office
2577 the candidate is seeking.
2578 Section 37. Except as otherwise expressly provided in this
2579 act and except for this section, which shall take effect upon
2580 becoming a law, this act shall take effect November 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/CS/SB 112

INTRODUCER: Rules Committee; Criminal Justice Committee; Judiciary Committee; and Senator Dean

SUBJECT: Property Fraud

DATE: April 3, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Cibula	JU	**Fav/CS**
2.	Erickson	Cannon	CJ	**Fav/CS**
3.	Munroe	Phelps	RC	**Fav/CS**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/CS/CS/SB 112 creates the offense of filing or directing to file, with the intent to defraud or harass another, a document in an official record which contains materially false, fictitious, or fraudulent statements or representations that affect the owner's interest in property described in the document. A person who commits the new offense commits a third-degree felony.[1] If a person commits this offense, a second or subsequent time the person commits a second-degree felony.[2] The bill reclassifies the felony degree of these offenses under circumstances outlined in the bill. The bill also provides that a person who files a fraudulent construction lien is subject to penalties under the Construction Lien Law, not the newly-created offense in the bill.

The bill amends the law relating to criminal actions under color of law or through use of simulated legal process, to revise definitions. For purposes of that law, the bill defines the term, "public officer or employee." The bill specifies additional civil remedies to grant relief to public officers or employees affected by the offense of filing of false statements or claims. The bill

[1] A third-degree felony is punishable by imprisonment of up to 5 years and the imposition of a fine of up to $5,000.
[2] A second-degree felony is punishable by imprisonment of up to 15 years and the imposition of a fine of up to $10,000.

ranks offenses created in the bill in the offense severity ranking chart of the Criminal Punishment Code for purposes of sentencing.

The bill creates section 817.535, Florida Statutes.

This bill amends sections 843.0855 and 921.0022, Florida Statutes.

II. Present Situation:

Fraud

Chapter 817, F.S., deals with a variety of fraudulent practices. Section 817.54, F.S., for example, states that a person commits a third-degree felony if he or she obtains a mortgage, mortgage note, or promissory note by false representation with the intent to defraud. Additionally, s. 817.155, F.S., makes it a third-degree felony to knowingly falsify any matter within the jurisdiction of the Department of State. The conduct subject to penalties appears to include filing fraudulent liens. Other provisions of law contain similar penalties specific to liens. Under s. 713.31(3), F.S., it is a third-degree felony to fraudulently file a construction lien. A construction lien is considered fraudulent if the person who filed the lien purposefully exaggerates the amount of the lien, includes work not performed, or compiles his or her claim with willful and gross negligence.[3]

In a 2011 federal case in Florida, the defendant filed false financial statements and liens against a number of federal officers who were involved in a separate criminal prosecution against him.[4] Although the liens in this case were "fantastic, delusional and incredible,"[5] with each claiming the amount owed was "$48,489,000.00 plus interest, penalties, and fees,"[6] the court found that the sham documents could still be damaging to the credit of the federal officers because they were recorded in official state and local registries.[7] The court found that the liens were fraudulent and void, and enjoined the defendant from filing future liens against federal employees absent a commercial relationship and a contract authorizing the filing.[8] The defendant was subsequently sentenced to 30 months in prison for the fraudulent filings.[9]

Fraudulent Recording of Deeds

Property owners who have wild deeds[10] recorded on their property may pursue a suit to quiet title, "an equitable action that involves clearing title of an invalid charge against the title."[11] In the alternative, property owners may sue for slander of title, a tort action for which damages may

---

[3] Section 713.31(2)(a), F.S.
[4] *United States v. Leitner*, 2011 WL 2532745, No. 3:10cv454/RS/CJK. (N.D. Fla. June 6, 2011).
[5] *Id.* at *7.
[6] Id. at *5.
[7] *Id.* at *7.
[8] *Id.* at *9.
[9] *See* Marie Yeung, *Man Sentenced for False Liens in Florida*, The Epoch Times, Oct. 3, 2011, http://www.theepochtimes.com/n2/united-states/man-sentenced-for-false-liens-in-florida-62333.html (last visited Jan. 4, 2013).
[10] A wild deed is a recorded deed that is not in the chain of title, usu. because a previous instrument connected to the chain of title has not been recorded. BLACK'S LAW DICTIONARY (9th ed. 2009).
[11] *See* 65 AM. JUR.2D *Quieting Title* s. 2 (2012).

be recovered.[12] The court may award costs as it considers equitable in a quiet title action, but such costs do not include attorney's fees.[13] A tort claim is not actionable as slander of title if the defendant acted without malice and with the belief that he or she had a valid claim against the property and was entitled to record that claim.[14]

Florida Recording Statute

Florida has a recording statute which states:

> No conveyance, transfer, or mortgage of real property, or of any interest therein, nor any lease for a property, or of any interest therein, nor any lease for a term of 1 year or longer, shall be good and effectual in law or equity against creditors or equity against creditors or subsequent purchasers for a valuable consideration and without notice, unless the same be recorded according to law; nor shall any such instrument made or executed by virtue of any power of attorney be good or effectual in law or in equity against creditors or subsequent purchasers for a valuable consideration and without notice unless the power of attorney be recorded before the accruing of the right of such creditor or subsequent purchaser.[15]

Section 695.01, F.S., is a notice-recording statute and "Florida courts over time have described and applied Florida's recording statute in a manner that is consistent with a 'notice' type of recording statute."[16] The recording system serves two purposes: it protects existing property owners and protects new buyers.[17] The system does so by allowing access to any person such as a creditor, tax collector, or prospective purchaser to ascertain who owns the property and what encumbrances might exist to the title. Because these records are open for the public to rely on and have the potential to call into question the owner's clear title to the property, having accurate property records is vital. Clerks of court have very little control over which documents are recorded, because the law generally does not require that the clerk examine a document for its validity or accuracy.[18]

III. Effect of Proposed Changes:

The bill creates s. 817.535, F.S., which creates the offense of filing or directing to file, with the intent to defraud or harass another, a document in an official record which contains materially false, fictitious, or fraudulent statements or representations that affect the owner's interest in property described in the document. A person who commits the new offense commits a third-degree felony. If a person commits this offense a second or subsequent time, the person commits a second-degree felony. The bill reclassifies the felony degree of these offenses (increasing them by one felony degree) if:

---

[12] *Id.*
[13] Section 86.081, F.S., and *see also Wiggins v. Wiggins*, 446 So. 2d 1078, 1079 (Fla. 1984).
[14] *McAllister v. Breakers Seville Ass'n Inc.*, 981 So. 2d 566 (Fla. 4th DCA 2008).
[15] Section 695.01(1), F.S.
[16] *Argent Mortg. Co., LLC v. Wachovia Bank N.A.*, 52 So. 3d 796, 799 (Fla. 5th DCA 2010) (citation omitted).
[17] John G. Sprankling, UNDERSTANDING PROPERTY Law, 394-95 (2000).
[18] *Cf.* Sprankling, 395.

- The owner of the property is a public officer or employee.
- The offender is convicted of the crime while incarcerated or on probation.
- The owner of the property incurs financial loss as a result of the document being recorded in the official record.

The bill also provides that a person who fraudulently records a claim for a construction lien pursuant to part I of ch. 713, F.S., is subject to penalties under the Construction Lien Law, and not the offense created under the bill. If a person is convicted of the offense created in the bill, the court must issue an order declaring the document forming the basis of the conviction void and may enjoin the person convicted of the offense from filing any document in an official record without review and approval by a circuit or county judge. The court may order the document forming the basis of the conviction to be sealed from the official record and removed from any applicable electronic database.

The bill gives a cause of action to a person adversely affected by a document filed in an official record which contains a materially false, fictitious, or fraudulent statement or representation. A *notice of lis pendens*[19] must be filed which specifically describes the document under challenge and the real or personal property affected by the document.

Upon a finding that the instrument contains a materially false, fictitious, or fraudulent statement or representation such that the instrument does not establish a legitimate property or lien interest in favor of another person:

- The court shall determine whether the entire instrument or certain parts thereof are null and void ab initio. If the court finds the instrument void in its entirety, it may order the instrument sealed from the official record and removed from any electronic database used for indexing or locating instruments in the official record. The court may also, permanently or for a period of time, enjoin the defendant who filed the instrument or who directed the filer to file an instrument, from filing or directing a person to file an instrument in the official records without prior review and approval for filing by a circuit or county court judge, provided that as to third parties who may have given value for an interest described or granted by any instrument filed in violation of the injunction, the instrument shall be deemed validly filed and provides constructive notice, notwithstanding any failure to comply with the terms of the injunction.
- The court shall award actual damages and punitive damages to the person adversely affected by the instrument, if the court finds that the violation of this section involved the intent to defraud or harass the person adversely affected by the instrument. The court may also levy a civil penalty of $2,500 for each instrument determined to be in violation of the statute.
- The court may grant such other relief or remedy that the court determines is just and proper within its sound judicial discretion.

[19] "The term lis pendens means a pending suit" Henry P. Trawick Jr., *Trawick's Florida Practice and Procedure*, s. 8:25 (2007 ed.). "The notice must be recorded in the office of the clerk of the circuit court of the county where the property is located. [The notice of lis pendens] must contain the name of the court, the names of all of the parties, the time of institution of the action, a description of the property affected and a statement of the relief sought concerning the property." *Id.* and s. 48.23(1), F.S.

The prevailing party in the civil cause of action created in the bill may recover costs and reasonable attorney fees.

The custodian of any official record must, upon payment of appropriate fees, provide a certified copy of the sealed document to the person who is adversely affected by the document for use in subsequent court proceedings or in addressing or correcting adverse effects on the person's credit or property rights. The custodian of any official record must, upon payment of appropriate fees, provide a certified copy of the sealed instrument to a federal, state, or local law enforcement agency. If feasible, the custodian of the official record where the document is recorded must record any court order finding that parts of the document or that the entire document is void. The bill requires the voided instrument be removed from electronic databases used for recording instruments in the public record, but be maintained so that the document may be reduced to paper form. The bill authorizes a government agency to provide legal representation to a public officer or employee if the document at issue appears to have been filed to defraud or harass the public officer or employee on account of the performance of that officer's or employee's official duties. If the public officer or employee is the prevailing party, the award of reasonable attorney fees must be paid to the government agency that provided the legal representation.

The bill provides that the requirements of the bill do not apply to the procedures for sealing or expunging criminal history records in ss. 943.0585 and 943.059, F.S.

The bill amends s. 843.0855, F.S., relating to criminal actions under color of law or through use of simulated legal process, to revise definitions. For purposes of s. 843.0855, F.S., the bill defines the term, "public officer or employee" to include, but not be limited to: a person elected or appointed to a state or federal office, including a person serving on an advisory body, board, commission, committee, council, or authority; an employee of a state, county, municipal, political subdivision, school district, educational institution, or special district agency or entity, including all judges, attorneys, law enforcement officers, deputy clerks of courts or marshals; a state or federal executive, legislative, or judicial officer, employee, or volunteer authorized to perform actions or services for any executive, legislative, or judicial office, agency, officer, or employee; a person who acts as a general or special magistrate, auditor, arbitrator, umpire, referee hearing officer, or consultant to any state or local governmental entity; and a person who is a candidate for public office or judicial position.

The bill provides it is a third-degree felony for a person to impersonate a public officer or employee or falsely, under the color of law, intimidate a public officer or employee.

The bill revises the offense severity ranking chart of the Criminal Punishment Code to provide the following rankings for offenses:

Level 7

- Filing false lien or other unauthorized document (s. 817.535(2)(a), F.S.)
- Impersonation of a public officer or employee. (s. 843.0855(2), F.S.)
- Unlawful simulation of legal process. (s. 843.0855(3), F.S.)
- Intimidation of a public officer or employee. (s. 843.0855(4), F.S.)

Level 8

- Second or subsequent offense of filing a false lien or other unauthorized document. (s. 817.535(2)(b), F.S.)
- Filing of a false lien or other unauthorized document; property owner is public officer or employee. (s. 817.535(3)(a), F.S.)
- Filing a false lien or other unauthorized document; defendant is incarcerated or under supervision. (s. 817.535(4)(a)1. F.S.)
- Filing a false lien or other unauthorized document; owner of the property incurs a financial loss as a result of the false instrument. (s. 817.535(5)(a), F.S.)

Level 9

- Second or subsequent offense; filing false lien or other unauthorized document; property owner is public officer or employee. (s. 817.535(3)(b), F.S.)
- Filing a false claim or other unauthorized document; defendant is incarcerated or under supervision. (s. 817.535(4)(a)2., F.S.)
- Second or subsequent offense; filing a false lien or other unauthorized document; owner of the property incurs a financial loss as a result of the false instrument. (s. 817.535(5)(b), F.S.)

The bill takes effect October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill requires that upon payment of the appropriate fee the custodian of any official record must provide a certified copy of the sealed instrument to the party who is adversely affected by the filing of a fraudulent record.

Additionally, the custodian of any official record must upon payment of appropriate fees, provide a certified copy of the sealed instrument to a federal, state, or local law enforcement agency.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of the State Courts Administrator has not completed a judicial impact statement for the bill as amended.

The Criminal Justice Impact Conference (CJIC) provides the final, official estimate of the prison bed impact, if any, of legislation. The CJIC has not yet considered the impact of this bill on prison beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS/CS by Rules on April 2, 2013:

- Makes minor changes in the style of language used in the bill without making substantive changes.
- Ranks additional offenses in the severity ranking chart of the Criminal Punishment Code.
- Removes the severability clause from s. 817.535, F.S., and adds a severability clause to the end of the bill.

CS/CS by Criminal Justice on March 18, 2013:

- Corrects descriptions of offenses and references to felony degree in provisions of the bill that rank offenses in the offense severity ranking chart of the Criminal Punishment Code.
- Rewords (but does not substantively change) provisions involving relief the court may provide for violations involving the filing of false instruments.
- Provides for a severability clause.

CS by Judiciary on March 6, 2013:
The committee substitute revises the elements of the offense of fraudulently filing a document in the official records. The committee substitute provides circumstances for which an enhanced punishment may be imposed for violating the offense created in the committee substitute. The committee substitute specifies additional civil remedies to grant relief to public officers or employees affected by the offense of filing of false

statements or claims. The committee substitute ranks offenses created in the committee substitute in the severity ranking chart under the Criminal Punishment Code for purposes of sentencing.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

764996

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Rules (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 817.535, Florida Statutes, is created to read:

817.535 Unlawful filing of false documents or records against real or personal property.—

(1) As used in this section, the term:

(a) "File" means to present an instrument for recording in an official record or to cause an instrument to be presented for recording in an official record.

(b) "Filer" means the person who presents an instrument for

764996

14 recording in an official record, or causes an instrument to be
15 presented for recording in an official record.
16 (c) "Instrument" means any judgment, mortgage, assignment,
17 pledge, lien, financing statement, encumbrance, deed, lease,
18 bill of sale, agreement, mortgage, notice of claim of lien,
19 notice of levy, promissory note, mortgage note, release, partial
20 release or satisfaction of any of the foregoing, or any other
21 document that relates to or attempts to restrict the ownership,
22 transfer, or encumbrance of or claim against real or personal
23 property, or any interest in real or personal property.
24 (d) "Official record" means the series of instruments,
25 regardless of how they are maintained, which a clerk of the
26 circuit court, or any person or entity designated by general
27 law, special law, or county charter, is required or authorized
28 by law to record. The term also includes a series of instruments
29 pertaining to the Uniform Commercial Code filed with the
30 Secretary of State or with any entity under contract with the
31 Secretary of State to maintain Uniform Commercial Code records
32 and a database of judgment liens maintained by the Secretary of
33 State.
34 (e) "Public officer or employee" means, but is not limited
35 to:
36 1. A person elected or appointed to a local, state, or
37 federal office, including any person serving on an advisory
38 body, board, commission, committee, council, or authority.
39 2. An employee of a state, county, municipal, political
40 subdivision, school district, educational institution, or
41 special district agency or entity, including judges, attorneys,
42 law enforcement officers, deputy clerks of court, and marshals.

764996

43 3. A state or federal executive, legislative, or judicial
44 officer, employee, or volunteer authorized to perform actions or
45 services for any state or federal executive, legislative, or
46 judicial office, or agency.
47 4. A person who acts as a general or special magistrate,
48 auditor, arbitrator, umpire, referee, hearing officer, or
49 consultant to any state or local governmental entity.
50 5. A person who is a candidate for public office or
51 judicial position.
52 (2)(a) A person who files or directs a filer to file, with
53 the intent to defraud or harass another, any instrument
54 containing a materially false, fictitious, or fraudulent
55 statement or representation that purports to affect an owner's
56 interest in the property described in the instrument commits a
57 felony of the third degree, punishable as provided in s.
58 775.082, s. 775.083, or s. 775.084.
59 (b) A person who violates paragraph (a) a second or
60 subsequent time commits a felony of the second degree,
61 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
62 (3) If a person is convicted of violating subsection (2)
63 and the owner of the property subject to the false instrument is
64 a public officer or employee, the offense shall be reclassified
65 as follows:
66 (a) In the case of a felony of the third degree, to a
67 felony of the second degree, punishable as provided in s.
68 775.082, s. 775.083, or s. 775.084.
69 (b) In the case of a felony of the second degree, to a
70 felony of the first degree, punishable as provided in s.
71 775.082, s. 775.083, or s. 775.084.

764996

72 (4)(a) If a person is convicted of violating subsection (2)
73 and the person committed the offense while incarcerated in a
74 jail or correctional institution or while participating in a
75 pretrial diversion program under any form of pretrial release or
76 bond, on probation or parole, or under any postrelease
77 supervision, the offense shall be reclassified as follows:
78 1. In the case of a felony of the third degree, to a felony
79 of the second degree, punishable as provided in s. 775.082, s.
80 775.083, or s. 775.084.
81 2. In the case of a felony of the second degree, to a
82 felony of the first degree, punishable as provided in s.
83 775.082, s. 775.083, or s. 775.084.
84 (b) If a person's offense has been reclassified pursuant to
85 this subsection, the sentencing court shall issue a written
86 finding that the offense occurred while incarcerated in a jail
87 or correctional institution and direct that a copy of the
88 written finding and judgment of conviction be forwarded to the
89 appropriate state institution or county facility for
90 consideration of disciplinary action and forfeiture of all gain-
91 time or any early release credits accumulated up to the date of
92 the violation.
93 (5) If the person is convicted of violating subsection (2)
94 and the owner of the property covered by the false instrument
95 incurs financial loss as a result of the instrument being
96 recorded in the official record, including costs and attorney
97 fees incurred in correcting, sealing, or removing the false
98 instrument from the official record as described herein, the
99 offense shall be reclassified as follows:
100 (a) In the case of a felony of the third degree, to a

764996

101 felony of the second degree, punishable as provided in s.
102 775.082, s. 775.083, or s. 775.084.
103 (b) In the case of a felony of the second degree, to a
104 felony of the first degree, punishable as provided in s.
105 775.082, s. 775.083, or s. 775.084.
106 (6) A person who fraudulently records a claim of lien in
107 the official records pursuant to part I of chapter 713 is
108 subject to the fraud provisions of s. 713.31 and not this
109 section.
110 (7) If a person is convicted of violating this section, the
111 sentencing court shall issue an order declaring the instrument
112 forming the basis of the conviction null and void and may enjoin
113 the person from filing any instrument in an official record
114 absent prior review and approval for filing by a circuit or
115 county court judge. The sentencing court may also order the
116 instrument forming the basis of the conviction sealed from the
117 official record and removed from any applicable electronic
118 database used for recording instruments in the official record.
119 (8)(a) Any person adversely affected by an instrument filed
120 in the official record which contains a materially false,
121 fictitious, or fraudulent statement or representation has a
122 civil cause of action under this section without regard to
123 whether criminal charges are pursued under subsection (2). A
124 notice of lis pendens in accord with s. 48.23 shall be filed
125 which specifically describes the instrument under challenge and
126 the real or personal property affected by the instrument.
127 (b) Upon a finding that the instrument contains a
128 materially false, fictitious, or fraudulent statement or
129 representation such that the instrument does not establish a

764996

130 legitimate property or lien interest in favor of another person:
131 1. The court shall determine whether the entire instrument
132 or certain parts thereof are null and void ab initio. If the
133 court finds the instrument void in its entirety, it may order
134 the instrument sealed from the official record and removed from
135 any electronic database used for indexing or locating
136 instruments in the official record. The court may also,
137 permanently or for a period of time, enjoin the defendant who
138 filed the instrument or who directed the filer to file the
139 instrument from filing or directing a person to file an
140 instrument in the official records without prior review and
141 approval for filing by a circuit or county court judge, provided
142 that as to third parties who may have given value for an
143 interest described or granted by any instrument filed in
144 violation of the injunction, the instrument shall be deemed
145 validly filed and provides constructive notice, notwithstanding
146 any failure to comply with the terms of the injunction.
147 2. Upon a finding of intent to defraud or harass, the court
148 or jury shall award actual damages and punitive damages, subject
149 to the criteria in s. 768.72, to the person adversely affected
150 by the instrument. The court may also levy a civil penalty of
151 $2,500 for each instrument determined to be in violation of
152 subsection (2).
153 3. The court may grant such other relief or remedy that the
154 court determines is just and proper within its sound judicial
155 discretion.
156 (c) The prevailing party in such a suit is entitled to
157 recover costs and reasonable attorney fees.
158 (d) The custodian of any official record shall, upon

764996

159 payment of appropriate fees, provide a certified copy of the
160 sealed instrument to the party seeking relief under this section
161 for use in subsequent court proceedings; in addressing or
162 correcting adverse effects upon the person's credit or property
163 rights, or reporting the matter for investigation and
164 prosecution; or in response to a subpoena seeking the instrument
165 for criminal investigative or prosecution purposes.
166 (e) Upon request, the custodian of any official record
167 shall, upon payment of appropriate fees, provide a certified
168 copy of the sealed instrument to any federal, state, or local
169 law enforcement agency.
170 (f) If feasible, the custodian of the official record where
171 the instrument is recorded shall record any court order finding
172 that the instrument is null and void in its entirety or in
173 certain parts thereof.
174 (g) An instrument removed from an electronic database used
175 for recording instruments in the public record pursuant to this
176 section shall be maintained in a manner in which the instrument
177 can be reduced to paper form.
178 (9) A government agency may provide legal representation to
179 a public officer or employee if the instrument at issue appears
180 to have been filed to defraud or harass the public officer or
181 employee in his or her official capacity. If the public officer
182 or employee is the prevailing party, the award of reasonable
183 attorney fees shall be paid to the government agency that
184 provided the legal representation.
185 (10) This section does not apply to the procedures for
186 sealing or expunging criminal history records as provided in
187 chapter 943.

764996

188 Section 2. Section 843.0855, Florida Statutes, is amended
189 to read:
190 843.0855 Criminal actions under color of law or through use
191 of simulated legal process.—
192 (1) As used in this section:
193 (a) The term "legal process" means a document or order
194 issued by a court or filed or recorded with an official court of
195 this state or the United States or with any official
196 governmental entity of this state or the United States for the
197 purpose of exercising jurisdiction or representing a claim
198 against a person or property, or for the purpose of directing a
199 person to appear before a court or tribunal, or to perform or
200 refrain from performing a specified act. "Legal process"
201 includes, but is not limited to, a summons, lien, complaint,
202 warrant, injunction, writ, notice, pleading, subpoena, or order.
203 (b) The term "person" means an individual, public or
204 private group incorporated or otherwise, legitimate or
205 illegitimate legal tribunal or entity, informal organization,
206 official or unofficial agency or body, or any assemblage of
207 individuals.
208 (c) The term "public officer or employee" has the same
209 meaning as provided in s. 817.535 ~~means a public officer as~~
210 ~~defined by s. 112.061~~.
211 ~~(d) The term "public employee" means a public employee as~~
212 ~~defined by s. 112.061.~~
213 (2) A ~~Any~~ person who deliberately impersonates or falsely
214 acts as a public officer or employee ~~tribunal, public employee~~
215 ~~or utility employee, including, but not limited to, marshals,~~
216 ~~judges, prosecutors, sheriffs, deputies, court personnel, or any~~

764996

217 ~~law enforcement authority~~ in connection with or relating to any
218 legal process affecting persons and property, or otherwise takes
219 any action under color of law against persons or property,
220 commits a felony of the third degree, punishable as provided in
221 s. 775.082, ~~or~~ s. 775.083, or s. 775.084. It is the intent of
222 the Legislature that this section applies if a person acts as an
223 officer or employee purporting to supersede or override any
224 legislation or statute of this state, or to supersede or
225 override any action of any court of this state.
226 (3) A ~~Any~~ person who simulates legal process, including,
227 but not limited to, actions affecting title to real estate or
228 personal property, indictments, subpoenas, warrants,
229 injunctions, liens, orders, judgments, or any legal documents or
230 proceedings, knowing or having reason to know the contents of
231 any such documents or proceedings or the basis for any action to
232 be fraudulent, commits a felony of the third degree, punishable
233 as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.
234 (4) A ~~Any~~ person who falsely under color of law attempts in
235 any way to influence, intimidate, harass, retaliate against, or
236 hinder a public officer or employee involving ~~law enforcement~~
237 ~~officer in~~ the discharge of his or her official duties by means
238 of, but not limited to, threats of or actual physical abuse or
239 harassment, or through the use of simulated legal process,
240 commits a felony of the third degree, punishable as provided in
241 s. 775.082, ~~or~~ s. 775.083, or s. 775.084.
242 (5)(a) ~~Nothing in~~ This section does not ~~shall~~ make unlawful
243 any act of any law enforcement officer or legal tribunal which
244 is performed under lawful authority.
245 (b) ~~Nothing in~~ This section does not ~~shall~~ prohibit

764996

246 individuals from assembling freely to express opinions or
247 designate group affiliation or association.
248 (c) ~~Nothing in~~ This section does not ~~shall~~ prohibit or in
249 any way limit a person's lawful and legitimate access to the
250 courts or prevent a person from instituting or responding to
251 legitimate and lawful legal process.
252 Section 3. Paragraphs (g), (h), and (i) of subsection (3)
253 of section 921.0022, Florida Statutes, are amended to read:
254 921.0022 Criminal Punishment Code; offense severity ranking
255 chart.—
256 (3) OFFENSE SEVERITY RANKING CHART
257 (g) LEVEL 7
258

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

262

764996

327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.

764996

461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.

764996

484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver’s license or identification card; other registration violations.
775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.

764996

289

775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.

290

782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

291

782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

292

782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).

293

782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).

294

784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.

295

784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.

296

764996

784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
787.06(3)(a)	1st	Human trafficking using coercion for labor and services.

764996

787.06(3)(e)	1st	Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st,PBL	Possession of a firearm by a person who

764996

		qualifies for the penalty enhancements provided for in s. 874.04.
314		
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
315		
796.03	2nd	Procuring any person under 16 years for prostitution.
316		
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
317		
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
318		
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
319		
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
320		
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
321		
810.02(3)(d)	2nd	Burglary of occupied conveyance;

764996

		unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

764996

812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.

764996

825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
843.0855(2)	3rd	Impersonation of a public officer or employee.
843.0855(3)	3rd	Unlawful simulation of legal process.

764996

348

843.0855(4)	3rd	Intimidation of a public officer or employee.

349

847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.

350

847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.

351

872.06	2nd	Abuse of a dead human body.

352

874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

353

893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

354

893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a),

764996

		(2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

764996

893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after

764996

		indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
985.4815(10)	3rd	Sexual offender; failure to submit to

764996

		the taking of a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.

(h) LEVEL 8

Florida Statute	Felony Degree	Description
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
316.1935(4)(b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
499.0051(7)	1st	Knowing trafficking in contraband prescription drugs.
499.0051(8)	1st	Knowing forgery of prescription labels or prescription drug labels.

764996

560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding $20,000, but less than $100,000 by money transmitter.
560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding $20,000, but less than $100,000.
655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding $20,000, but less than $100,000 by financial institutions.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
782.051(2)	1st	Attempted felony murder while

764996

		perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
787.06(3)(b)	1st	Human trafficking using coercion for commercial sexual activity.
787.06(3)(c)	1st	Human trafficking using coercion for labor and services of an unauthorized alien.
787.06(3)(f)	1st	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any individual from outside Florida to within the state.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)	2nd	Sexual battery, victim 12 years or

764996

		over, offender does not use physical force likely to cause serious injury.
794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
800.04(4)	2nd	Lewd or lascivious battery.
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.
812.014(2)(a)2.	1st	Property stolen; cargo valued at $50,000 or more, grand theft in 1st degree.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)(c)	1st	Home-invasion robbery, no firearm,

764996

		deadly weapon, or other weapon.
817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
817.535(4)(a)1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
817.535(5)(a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(a)	1st	Exploiting an elderly person or

764996

		disabled adult and property is valued at $100,000 or more.
837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

764996

893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
893.135 (1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
893.135 (1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.

764996

893.135 (1)(k)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding $20,000, but less than $100,000.
896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $20,000 but less than $100,000.

764996

443 (i) LEVEL 9
444

Florida Statute	Felony Degree	Description
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
409.920 (2)(b)1.c.	1st	Medicaid provider fraud; $50,000 or more.
499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding $100,000 by money transmitter.
560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding $100,000.
655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding

764996

		$100,000 by financial institution.
775.0844	1st	Aggravated white collar crime.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified felonies.
782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental

764996

		or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized alien.
787.06(3)(g)	1st,PBL	Human trafficking for commercial sexual activity of a child under the age of 18.
787.06(4)	1st	Selling or buying of minors into human trafficking.
790.161	1st	Attempted capital destructive device offense.
790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.

764996

467

794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.

468

794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.

469

794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.

470

794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.

471

796.035	1st	Selling or buying of minors into prostitution.

472

800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.

473

812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.

474

812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.

475

764996

812.135(2)(b)	1st	Home-invasion robbery with weapon.
817.535(3)(b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
817.535(4)(a)2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
817.535(5)(b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a result of the false instrument.
817.568(7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
827.03(2)(a)	1st	Aggravated child abuse.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining

764996

		custody or control, of a minor.
859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
893.135	1st	Trafficking in gamma-hydroxybutyric

764996

(1)(h)1.c.		acid (GHB), 10 kilograms or more.
893.135 (1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
893.135 (1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding $100,000.
896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $100,000.

Section 4. If any section, subsection, sentence, clause, phrase, or word of this act is for any reason held or declared to be unconstitutional, illegal, invalid, inoperative, ineffective, inapplicable, or void, such invalidity or unconstitutionality shall not affect the portions of this act not so held to be unconstitutional, illegal, invalid, inoperative, ineffective, inapplicable, or void, or affect the application of this act to other circumstances not so held to be invalid, it being the express legislative intent that any such unconstitutional, illegal, invalid, inoperative, ineffective, inapplicable, or void portion or portions of this act did not induce its passage, and that without the inclusion of any such

764996

509 unconstitutional, illegal, invalid, inoperative, ineffective,
510 inapplicable, or void portions of this act, the Legislature
511 would have enacted the valid and constitutional portions
512 thereof.
513 Section 5. This act shall take effect October 1, 2013.
514
515 ========== T I T L E A M E N D M E N T ==========
516 And the title is amended as follows:
517 Delete everything before the enacting clause
518 and insert:
519 A bill to be entitled
520 An act relating to filing false documents against real
521 or personal property; creating s. 817.535, F.S.;
522 defining terms; prohibiting a person from filing or
523 causing to be filed, with intent to defraud or harass
524 another, a document relating to the ownership,
525 transfer, or encumbrance of, or claim against, real or
526 personal property, or any interest in real or personal
527 property; providing criminal penalties; establishing
528 reclassified penalties for persons who commit the
529 specified offenses a second or subsequent time when
530 the person is a convicted offender who commits the
531 specified offenses while incarcerated in a jail or
532 participating in a community correctional program and
533 when the victim of the offense is a public officer or
534 employee or incurs financial losses under certain
535 circumstances; authorizing the court to issue an
536 injunction; authorizing a court to seal specified
537 public or private records under certain circumstances;

764996

538 providing that the subject of the false statements has
539 a civil cause of action against the perpetrator;
540 providing for actual and punitive damages; providing
541 that the prevailing party is entitled to costs and
542 reasonable attorney fees; providing duties of the
543 custodian of the official record; providing
544 applicability; requiring that attorney fees be paid to
545 the government agency that provides legal
546 representation under certain circumstances; amending
547 s. 843.0855, F.S.; revising definitions; defining the
548 term “public officer or employee”; revising criminal
549 penalties for criminal actions under color of law or
550 through use of simulated legal process; providing
551 legislative intent; amending s. 921.0022, F.S.;
552 revising provisions of the offense severity ranking
553 chart of the Criminal Punishment Code to conform to
554 changes made by the act; providing severability;
555 providing an effective date.

By the Committees on Criminal Justice; and Judiciary; and Senator Dean

591-02610A-13 2013112c2

A bill to be entitled

An act relating to filing false documents against real or personal property; creating s. 817.535, F.S.; defining terms; prohibiting a person from filing or causing to be filed, with intent to defraud another, a document relating to the ownership, transfer, or encumbrance of or claim against real or personal property, or any interest in real or personal property, which the person knows contains a material misstatement or misrepresentations; providing criminal penalties; establishing reclassified penalties that increase criminal penalties for persons who commit the specified offenses a second or more times, who are convicted offenders who commit unlawful acts while incarcerated in a jail or participating in community correctional programs, and when the victim of the offense is a public officer or employee under certain circumstances; authorizing the court to issue injunction; authorizing a court to seal specified public or private records under certain circumstances; providing that the subject of the false statements has a cause of action against the perpetrator; providing for actual and punitive damages; providing that the prevailing party is entitled to costs and reasonable attorney fees; providing duties of the custodian of the official record; providing applicability; requiring that attorney fees be paid to the government agency that provides legal representation, under certain circumstances; amending s. 843.0855, F.S.;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-02610A-13 2013112c2

revising definitions; defining the term "public officer or employee"; providing criminal penalties for a person who impersonates a public official or employee or who, under color of law, intimidates certain specified officials; amending s. 921.0022, F.S.; revising provisions of the offense severity ranking chart of the Criminal Punishment Code to conform to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 817.535, Florida Statutes, is created to read:

817.535 Unlawful filing of false documents or records against real or personal property.—

(1) As used in this section, the term:

(a) "File" means to present an instrument for recording in an official record or to cause an instrument to be presented for recording in an official record.

(b) "Filer" means the person who presents an instrument for recording in an official record, or causes an instrument to be presented for recording in an official record.

(c) "Instrument" means any judgment, mortgage, assignment, pledge, lien, financing statement, encumbrance, deed, lease, bill of sale, agreement, mortgage, notice of claim of lien, notice of levy, promissory note, mortgage note, release, partial release or satisfaction of any of the foregoing, or any other document that relates to or attempts to restrict the ownership,

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 transfer, encumbrance of or claim against real or personal
60 property, or any interest in real or personal property.
61 (d) "Official record" means the series of instruments,
62 regardless of how they are maintained, which a clerk of the
63 circuit court, or any person or entity designated by general
64 law, special law, or county charter, is required or authorized
65 by law to record. The term also includes a series of instruments
66 pertaining to the Uniform Commercial Code filed with the
67 Secretary of State or with any entity under contract with the
68 Secretary of State to maintain Uniform Commercial Code records
69 and a database of judgment liens maintained by the Secretary of
70 State.
71 (e) "Public officer or employee" means, but is not limited
72 to:
73 1. A person elected or appointed to a state or federal
74 office, including any person serving on an advisory body, board,
75 commission, committee, council, or authority;
76 2. An employee of a state, county, municipal, political
77 subdivision, school district, educational institution, or
78 special district agency or entity, including all judges,
79 attorneys, law enforcement officers, deputy clerks of court, and
80 marshals;
81 3. A state or federal executive, legislative, or judicial
82 officer, employee, or volunteer authorized to perform actions or
83 services for any executive, legislative, or judicial office,
84 agency, officer, or employee;
85 4. A person who acts as a general or special magistrate,
86 auditor, arbitrator, umpire, referee, hearing officer, or
87 consultant to any state or local governmental entity; and

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

88 5. A person who is a candidate for public office or
89 judicial position.
90 (2)(a) A person who files or directs a filer to file, with
91 the intent to defraud or harass another, any instrument
92 containing a materially false, fictitious, or fraudulent
93 statement or representation that purports to affect the owner's
94 interest in the property described in the instrument commits a
95 felony of the third degree, punishable as provided in s.
96 775.082, s. 775.083, or s. 775.084.
97 (b) A person who violates paragraph (a) a second or
98 subsequent time commits a felony of the second degree,
99 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
100 (3) If a person is convicted of violating subsection (2)
101 and the owner of the property subject to the false instrument is
102 a public officer or employee, such offense shall be reclassified
103 as follows:
104 (a) In the case of a felony of the third degree, to a
105 felony of the second degree, punishable as provided in s.
106 775.082, s. 775.083, or s. 775.084.
107 (b) In the case of a felony of the second degree, to a
108 felony of the first degree, punishable as provided in s.
109 775.082, s. 775.083, or s. 775.084.
110 (4) If a person is convicted of violating subsection (2)
111 while incarcerated in a jail or correctional institution or
112 while participating in a pretrial diversion program under any
113 form of pretrial release or bond, on probation or parole, or
114 under any postrelease supervision, the offense for which the
115 person is convicted shall be reclassified as follows:
116 (a) In the case of a felony of the third degree, to a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

117 felony of the second degree, punishable as provided in s.
118 775.082, s. 775.083, or s. 775.084.
119 (b) In the case of a felony of the second degree, to a
120 felony of the first degree, punishable as provided in s.
121 775.082, s. 775.083, or s. 775.084.
122
123 If a person convicted of violating this subsection committed the
124 offense while incarcerated in a jail or correctional
125 institution, the sentencing court shall issue a written finding
126 that the offense occurred while the person was incarcerated in a
127 jail or correctional institution and direct that a copy of the
128 written finding and judgment of conviction be forwarded to the
129 appropriate state institution or county facility for
130 consideration of disciplinary action, including forfeiture of
131 all gain-time or any early release credits accumulated up to the
132 date of the violation.
133 (5) If the person is convicted of violating subsection (2)
134 and the owner of property covered by the false instrument incurs
135 financial loss as a result of the instrument being recorded in
136 the official record, including costs and attorney fees incurred
137 in correcting, sealing, or removing the false instrument from
138 the official record as described herein, such an offense shall
139 be reclassified as follows:
140 (a) In the case of a felony of the third degree, to a
141 felony of the second degree, punishable as provided in s.
142 775.082, s. 775.083, or s. 775.084.
143 (b) In the case of a felony of the second degree, to a
144 felony of the first degree, punishable as provided in s.
145 775.082, s. 775.083, or s. 775.084.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

146 (6) A person who fraudulently records a claim of lien in
147 the official records pursuant to part I of chapter 713 is
148 subject to the fraud provisions of s. 713.31 and not this
149 section.
150 (7) If a person is convicted of violating this section, the
151 court shall issue an order declaring the instrument forming the
152 basis of the conviction null and void and may enjoin the person
153 from filing any instrument in an official record absent prior
154 review and approval by a circuit or county court judge. The
155 court may also order the instrument forming the basis of the
156 conviction sealed from the official record and removed from any
157 applicable electronic database used for recording instruments in
158 the official record.
159 (8)(a) Any person adversely affected by an instrument filed
160 in the official record which contains a materially false,
161 fictitious, or fraudulent statement or representation has a
162 civil cause of action under this section without regard to
163 whether criminal charges are pursued under subsection (2). A
164 notice of lis pendens in accord with s. 48.23 shall be filed
165 which specifically describes the instrument under challenge and
166 the real or personal property affected by the instrument.
167 (b) Upon a finding that the instrument contains a
168 materially false, fictitious, or fraudulent statement or
169 representation such that the instrument does not establish a
170 legitimate property or lien interest in favor of another person:
171 1. The court shall determine whether the entire instrument
172 or certain parts thereof are null and void ab initio. If the
173 court finds the instrument null and void in its entirety, it may
174 order the instrument sealed from the official record and removed

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

175 from any electronic database used for indexing or locating
176 instruments in the official record. The court may also,
177 permanently or for a period of time, enjoin the defendant who
178 filed the instrument or who directed the filer to file the
179 instrument, from filing or directing a person to file an
180 instrument in the official records, without prior review and
181 approval for filing by a circuit or county court judge, provided
182 that as to third parties who may have given value for an
183 interest described or granted by any instrument filed in
184 violation of the injunction, the instrument shall be deemed
185 validly filed and provides constructive notice, notwithstanding
186 any failure to comply with the terms of the injunction.
187 2. The court, upon a finding of intent to defraud or
188 harass, shall award actual damages and punitive damages, subject
189 to the criteria in s. 768.72, to the person adversely affected
190 by the instrument. The court may also levy a civil penalty of
191 $2,500 for each instrument determined to be in violation of
192 subsection (2).
193 3. The court may grant such other relief or remedy that the
194 court determines is just and proper within its sound judicial
195 discretion.
196 (c) The prevailing party in such a suit is entitled to
197 recover costs and reasonable attorney fees.
198 (d) The custodian of any official record shall, upon
199 payment of appropriate fees, provide a certified copy of the
200 sealed instrument to the party seeking relief under this section
201 for use in subsequent court proceedings, in addressing or
202 correcting adverse effects upon the person's credit or property
203 rights, or reporting the matter for investigation and

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

204 prosecution; or in response to a subpoena seeking the instrument
205 for criminal investigative or prosecution purposes.
206 (e) Upon request, the custodian of any official record
207 shall, upon payment of appropriate fees, provide a certified
208 copy of the sealed instrument to any federal state or local law
209 enforcement agency.
210 (f) If feasible, the custodian of the official record where
211 the instrument is recorded shall record any court order finding
212 that the instrument is null and void in its entirety or in
213 certain parts thereof.
214 (g) An instrument removed from an electronic database used
215 for recording instruments in the public record pursuant to this
216 section shall be maintained in a manner in which the instrument
217 can be reduced to paper form.
218 (9) A government agency may provide legal representation to
219 a public officer or employee if the instrument at issue appears
220 to have been filed to defraud or harass the public officer or
221 employee on account of the performance in that officer's or
222 employee's official duties. If the public officer or employee is
223 the prevailing party, the award of reasonable attorney fees
224 shall be paid to the government agency that provided the legal
225 representation.
226 (10) This section does not apply to the procedures for
227 sealing or expunging criminal history records as provided in ss.
228 943.0585 and 943.059.
229 (11) If any provision of this section or its application to
230 any person or circumstance is held invalid, the invalidity shall
231 not affect other provisions or applications of this section
232 which can be given effect without the invalid provision or

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

application, and to this end the provisions of this section are severable.

Section 2. Section 843.0855, Florida Statutes, is amended to read:

843.0855 Criminal actions under color of law or through use of simulated legal process.—

(1) As used in this section:

(a) The term "legal process" means a document or order issued by a court or filed or recorded with an official court of this state or the United States or with any official governmental entity of this state or the United States for the purpose of exercising jurisdiction or representing a claim against a person or property, or for the purpose of directing a person to appear before a court or tribunal, or to perform or refrain from performing a specified act. "Legal process" includes, but is not limited to, a summons, lien, complaint, warrant, injunction, writ, notice, pleading, subpoena, or order.

(b) The term "person" means an individual, public or private group incorporated or otherwise, legitimate or illegitimate legal tribunal or entity, informal organization, official or unofficial agency or body, or any group of individuals associated in fact, whether a legal entity or not ~~assemblage of individuals~~.

(c) The term "public officer or employee" includes, but is not limited to:

1. A person elected or appointed to a state or federal office, including a person serving on an advisory body, board, commission, committee, council, or authority;

2. An employee of a state, county, municipal, political

subdivision, school district, educational institution, or special district agency or entity, including all judges, attorneys, law enforcement officers, deputy clerks of court, or marshals;

3. A state or federal executive, legislative, or judicial officer, employee, or volunteer authorized to perform actions or services for any executive, legislative, or judicial office, agency, officer, or employee;

4. A person who acts as a general or special magistrate, auditor, arbitrator, umpire, referee, hearing officer, or consultant to any state or local governmental entity; and

5. A person who is a candidate for public office or judicial position

~~(c) The term "public officer" means a public officer as defined by s. 112.061~~.

~~(d) The term "public employee" means a public employee as defined by s. 112.061.~~

(2) A ~~Any~~ person who deliberately impersonates or falsely acts as a public officer or employee ~~tribunal, public employee or utility employee, including, but not limited to, marshals, judges, prosecutors, sheriffs, deputies, court personnel, or any law enforcement authority~~ in connection with or relating to any legal process affecting persons and property, or otherwise takes any action under color of law against persons or property, commits a felony of the third degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084. It is the intent of the Legislature that this section applies if a person acts as an officer or employee purporting to supersede or override any legislation or statute of this state, or to supersede or

291 override any action of any court, of this state.
292 (3) A ~~Any~~ person who simulates legal process, including,
293 but not limited to, actions affecting title to real estate or
294 personal property, indictments, subpoenas, warrants,
295 injunctions, liens, orders, judgments, or any legal documents or
296 proceedings, knowing or having reason to know the contents of
297 any such documents or proceedings or the basis for any action to
298 be fraudulent, commits a felony of the third degree, punishable
299 as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.
300 (4) A ~~Any~~ person who falsely under color of law attempts in
301 any way to influence, intimidate, harass, retaliate against, or
302 hinder a public officer or employee involving ~~or law enforcement~~
303 ~~officer in~~ the discharge of his or her official duties by means
304 of, but not limited to, threats of or actual physical abuse or
305 harassment, or through the use of simulated legal process,
306 commits a felony of the third degree, punishable as provided in
307 s. 775.082, ~~or~~ s. 775.083, or s. 775.084.
308 (5)(a) ~~Nothing in~~ This section does not ~~shall~~ make unlawful
309 any act of any law enforcement officer or legal tribunal which
310 is performed under lawful authority.
311 (b) ~~Nothing in~~ This section does not ~~shall~~ prohibit
312 individuals from assembling freely to express opinions or
313 designate group affiliation or association.
314 (c) ~~Nothing in~~ This section does not ~~shall~~ prohibit or in
315 any way limit a person's lawful and legitimate access to the
316 courts or prevent a person from instituting or responding to
317 legitimate and lawful legal process.
318 Section 3. Paragraphs (g) through (i) of subsection (3) of
319 section 921.0022, Florida Statutes, are amended to read:

320 921.0022 Criminal Punishment Code; offense severity ranking
321 chart.—
322 (3) OFFENSE SEVERITY RANKING CHART
323 (g) LEVEL 7
324

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

330

409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.

464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.

350

560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.

351

560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.

352

655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.

353

775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.

354

775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.

355

775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.

356

782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

357

782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).

358

782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).

359

782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).

360

784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.

361

784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.

362

784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.

363

784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.

364

784.048(7)	3rd	Aggravated stalking; violation of court order.

365
784.07(2)(d) 1st Aggravated battery on law enforcement officer.
366
784.074(1)(a) 1st Aggravated battery on sexually violent predators facility staff.
367
784.08(2)(a) 1st Aggravated battery on a person 65 years of age or older.
368
784.081(1) 1st Aggravated battery on specified official or employee.
369
784.082(1) 1st Aggravated battery by detained person on visitor or other detainee.
370
784.083(1) 1st Aggravated battery on code inspector.
371
787.06(3)(a) 1st Human trafficking using coercion for labor and services.
372
787.06(3)(e) 1st Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.
373
790.07(4) 1st Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

374
790.16(1) 1st Discharge of a machine gun under specified circumstances.
375
790.165(2) 2nd Manufacture, sell, possess, or deliver hoax bomb.
376
790.165(3) 2nd Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
377
790.166(3) 2nd Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
378
790.166(4) 2nd Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
379
790.23 1st,PBL Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
380
794.08(4) 3rd Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
381

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

796.03	2nd	Procuring any person under 16 years for prostitution.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen

		while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.

817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.

827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
843.0855(2)	3rd	Impersonation of a public officer or employee.
843.0855(3)	3rd	Unlawful simulation of legal process.
843.0855(4)	3rd	Intimidation of a public officer or employee.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.

847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06	2nd	Abuse of a dead human body.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and

reregister; failure to respond to address verification.

448

449 (h) LEVEL 8

450

Florida Statute	Felony Degree	Description
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
316.1935(4)(b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
499.0051(7)	1st	Knowing trafficking in contraband prescription drugs.
499.0051(8)	1st	Knowing forgery of prescription labels or prescription drug labels.
560.123(8)(b)2.	2nd	Failure to report currency or payment instruments totaling or exceeding $20,000, but less than $100,000 by money transmitter.
560.125(5)(b)	2nd	Money transmitter business by unauthorized person, currency or

		payment instruments totaling or exceeding $20,000, but less than $100,000.
655.50(10)(b)2.	2nd	Failure to report financial transactions totaling or exceeding $20,000, but less than $100,000 by financial institutions.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
782.051(2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.

463

782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.

464

787.06(3)(b)	1st	Human trafficking using coercion for commercial sexual activity.

465

787.06(3)(c)	1st	Human trafficking using coercion for labor and services of an unauthorized alien.

466

787.06(3)(f)	1st	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any individual from outside Florida to within the state.

467

790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.

468

794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.

469

794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.

470

800.04(4)	2nd	Lewd or lascivious battery.

471

806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.

472

810.02(2)(a)	1st,PBL	Burglary with assault or battery.

473

810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.

474

810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.

475

812.014(2)(a)2.	1st	Property stolen; cargo valued at $50,000 or more, grand theft in 1st degree.

476

812.13(2)(b)	1st	Robbery with a weapon.

477

812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.

478

817.535(2)(b)	2nd	Second or subsequent offense issuing or filing false document.

479

817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public

		officer or employee.
817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $100,000 or more.
837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.

893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135	1st	Trafficking in amphetamine, more than

(1)(f)1.b.		28 grams, less than 200 grams.
893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
893.135 (1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
893.135 (1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
893.135 (1)(k)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any

		enterprise through pattern of racketeering activity.
896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding $20,000, but less than $100,000.
896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $20,000 but less than $100,000.

(i) LEVEL 9

Florida Statute	Felony Degree	Description
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
409.920 (2)(b)1.c.	1st	Medicaid provider fraud; $50,000 or more.
499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great

		bodily harm.
560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding $100,000 by money transmitter.
560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding $100,000.
655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding $100,000 by financial institution.
775.0844	1st	Aggravated white collar crime.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified felonies.
782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s.

		782.04(3).
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized alien.
787.06(3)(g)	1st,PBL	Human trafficking for commercial sexual activity of a child under the age of 18.

528

787.06(4)	1st	Selling or buying of minors into human trafficking.

529

790.161	1st	Attempted capital destructive device offense.

530

790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.

531

794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.

532

794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.

533

794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.

534

794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.

535

794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.

536

796.035	1st	Selling or buying of minors into prostitution.

537

800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.

538

812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.

539

812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.

540

812.135(2)(b)	1st	Home-invasion robbery with weapon.

541

817.535(3)(b)	1st	Second or subsequent offense issuing or filing false document; property owner is a public officer or employee.

542

817.568(7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.

543
544

827.03(2)(a)	1st	Aggravated child abuse.

545

847.0145(1)	1st	Selling, or otherwise transferring

		custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135	1st	Trafficking in amphetamine, more than

(1)(f)1.c.		200 grams.
893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
893.135 (1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
893.135 (1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding $100,000.
896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $100,000.

Section 4. This act shall take effect October 1, 2013.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic: Filing False Documents against real/personal Property

Bill Number: 0112 (if applicable)

Name: Captain Charles Brown

Amendment Barcode: (if applicable)

Job Title: Deputy sheriff

Address: 123 W. Indiana Ave (Street)

DeLand FL 32720 (City, State, Zip)

Phone: 386-736-5961

E-mail:

Speaking: [✓] For [ ] Against [ ] Information

Representing: Florida Sheriffs Assoc

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4 / 2 /2013
Meeting Date

Topic _____

Bill Number 112 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: FILING FALSE DOCUMENTS

Bill Number: SB-812 (if applicable)

Name: JIM GABBARD

Amendment Barcode: (if applicable)

Job Title: RETIRED Chief of Police

Address: 1160 31ST AVE.
Street

VERO BEACH FLA
City State Zip

Phone: 772-473-7966

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: The Florida Police Chiefs Association

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and Conservation, *Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on General Government
Children, Families, and Elder Affairs
Criminal Justice
Gaming
Military Affairs, Space, and Domestic Security

SENATOR CHARLES S. DEAN, SR.
5th District

March 19, 2013

RECEIVED
MAR 19 2013
SENATE
RULES COMMITTEE

The Honorable John Thrasher
400 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Thrasher:

I respectfully request you place Senate Bill 112, relating to Property Fraud, on your Rules Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

Charles S. Dean
State Senator District 5

cc: John B. Phelps, Staff Director

REPLY TO:
☐ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
☐ 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
☐ 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: *www.flsenate.gov*

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 186

INTRODUCER: Judiciary Committee and Senator Diaz de la Portilla

SUBJECT: Jurisdiction of the Courts

DATE: March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Hrdlicka	CM	**Favorable**
2.	Brown	Cibula	JU	**Fav/CS**
3.	Siples	Phelps	RC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/SB 186 addresses personal jurisdiction of the courts of this state.

This bill clarifies that foreign judgments issued by United States territories are entitled to full faith and credit in this state under the Florida Enforcement of Foreign Judgments Act.

The bill extends personal jurisdiction to parties who initiate arbitration or enter into written contracts that provide for arbitration in this state for any action that arises out of arbitration or a resulting award.

The Florida International Commercial Arbitration Act is amended to correct cross-references within the act to conform exactly to the UNCITRAL Model Law on Commercial Arbitration.

This bill substantially amends the following sections of the Florida Statutes: 48.193, 55.502, 684.0002, 684.0003, 684.0019, and 684.0026.

The bill creates section 684.0049, Florida Statutes.

II. Present Situation:

Jurisdiction

The ability of a court to assert personal jurisdiction over a nonresident is subject to the constitutional Due Process Clause of the Fourteenth Amendment.[1] The test for determining whether a court may assert personal jurisdiction over a nonresident is whether the nonresident has "minimum contacts" in the forum so that commencing a proceeding against that individual does "not offend traditional notions of fair play and justice."[2] Foreseeability is key; therefore, the principal inquiry is whether the nonresident's conduct and connection with the forum state would lead him or her to believe that they could "reasonably anticipate being haled into court … ."[3]

Florida Long-Arm Statute

The second limit on a court's ability to assert personal jurisdiction is derived from a state's long-arm statute. Such statutes can be drafted broadly[4] to reach the maximum bounds of the Due Process Clause or narrowly by enumerating specific acts or activities that would allow a court to assume personal jurisdiction in a particular case. Florida's statute falls into the latter category. In *Venetian Salami Co. v. J.S. Parthenais*, the Florida Supreme Court described the interplay between Florida's long-arm statute and the due process requirements of the Fourteenth Amendment as follows:

> By enacting section 48.193, the legislature has determined the requisite basis for obtaining jurisdiction over nonresident defendants as far as Florida is concerned. It has not specifically addressed whether the federal constitutional requirement of minimum contacts has been met. As a practical matter, it could not do so because each case will depend upon the facts.[5]

Therefore, a court must satisfy two inquiries. The first is whether there is a jurisdictional basis under the Florida long-arm statute to assert personal jurisdiction; and if so, whether minimum contacts exist.[6]

Florida Enforcement of Foreign Judgments Act

Article IV, clause 1 of the United States Constitution provides that "Full Faith and Credit shall be given in each State to the public Acts, Records, and Judicial Proceedings of every other

---

[1] U.S. Const. amend. XIV, s. 2 ("No state shall . . . deprive any person of life, liberty, or property without due process of law . . . ."); *See International Shoe Co. v. Washington, Office of Unemployment Comp. and Placement,* 326 U.S. 310, 316 (1945).
[2] *Id.* at 316.
[3] *Burger King Corp. v. Rudzewicz,* 471 U.S. 462, 474 (1985) (quoting *World-Wide Volkswagen Co. v. Woodson,* 444 U.S. 286, 297 (1980)).
[4] As an example of a broad long-arm statute, California's long-arm statute states: "A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States." Cal. Civ. Proc. s. 410.10 (2012).
[5] *Venetian Salami Co. v. J.S. Parthenais,* 554 So. 2d 499, 500 (Fla. 1989).
[6] *Jetbroadband WV, LLC v. Mastec North America, Inc.*, 13 So. 3d 159, 161 (Fla. 3rd DCA 2009).

State."[7] Accordingly, under the Florida Enforcement of Foreign Judgments Act (Act), ss. 55.501-55.509, F.S., foreign judgments from sister jurisdictions may be enforced in Florida upon being recorded **in the office of the clerk of the circuit court of any county**.[8]

Foreign judgments enforceable under the Act include "any judgment, decree, or order of a court of any other state or of the United States if such judgment, decree, or order is entitled to full faith and credit in this state."[9] The Act is silent regarding whether territories or possessions are also entitled to full faith and credit under federal law.[10]

In *Rodriguez v. Nasrallah*,[11] a Florida court clarified that "[j]udgments of courts in Puerto Rico are entitled to full faith and credit in the same manner as judgments from courts of sister States." As a result, the court permitted the enforcement of a Puerto Rican judgment in Florida. However, taken literally, a judgment from a Puerto Rican court would not qualify as a judgment from a state court under s. 55.502(1), F.S.

Florida International Commercial Arbitration Act

Chapter 2010-60, L.O.F., repealed the then current law relating to international commercial arbitration and adopted instead the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration (UNCITRAL Model Law) as amended in 2006 by the General Assembly.

Chapter 684, F.S., in accordance with the UNCITRAL Model Law, applies to any international commercial arbitration subject to an agreement between the United States of America and any other country. The law provides definitions, principles under which the law is to be interpreted, procedural requirements, discovery and evidentiary requirements, as well as arbitral tribunal powers and immunity.

Presently, two of the statutes in the Florida International Commercial Arbitration Act contain inadvertent clerical errors as they relate to cross-references. As such, in its current form, the statute does not conform exactly to the UNCITRAL Model Law.

III. Effect of Proposed Changes:

Arbitration as a Basis for Jurisdiction

Section 684.009, F.S., provides that initiating arbitration in Florida or the making of a written contract agreeing to arbitrate in this state constitutes consent for the courts of this state to assert personal jurisdiction over the parties. Personal jurisdiction applies to any action arising out of or

---

[7] U.S. CONST. art. IV, cl 1.
[8] Section 55.503, F.S.
[9] Section 55.502(1), F.S.
[10] *See* 28 U.S.C. s. 1738 ("The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.").
[11] *Rodriguez v. Nasrallah*, 659 So. 2d 437, 439 (Fla. 1st DCA 1995).

in connection with the arbitration and any resulting order or award. This provision previously existed in statute and was removed upon the enactment of the UNCITRAL Model law.[12]

Florida Enforcement of Foreign Judgments Act

The bill clarifies that foreign judgments issued by United States territories are entitled to full faith and credit in this state, under the Florida Enforcement of Foreign Judgments Act. This provision ensures that Florida courts will equally recognize judgments from territories, as well as states.

The bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Office of the State Courts Administrator's 2013 Judicial Impact Statement, SB 186 as filed could increase the number of contract actions filed in circuit court. It is unknown whether an impact will result from the bill as revised.[13]

VI. Technical Deficiencies:

None.

---

[12] See s. 684.30, F.S. (2009).
[13] Office of the State Courts Administrator, *2013 Judicial Impact Statement* (Jan. 11, 2013) (on file with the Senate Commerce and Tourism Committee and the Judiciary Committee).

VII. Related Issues:

The 2012 Legislature passed the substance of this bill in HB 917 (Senate Bill 486 contained the Senate version.) Governor Scott subsequently vetoed the bill on the basis that the bill would permit individuals and businesses with no ties to Florida to litigate in our court system. "Establishing Florida as a destination for lawsuits by entities outside of the state of Florida is unattractive for the business climate."[14] The Governor also noted that increasing litigation in the state may add to a backlog of cases and increased judicial workload. CS/SB 186 adds as a basis for personal jurisdiction the initiation of arbitration in this state, but deletes other language providing for more flexible standards for jurisdiction by the state.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on March 18, 2013:
The committee substitute:

- Removes provisions of the bill which would have amended ss. 685.101, and 685.102, F.S., to extend the jurisdiction of the courts of this state to hear cases that do not:
  - Bear a substantial or reasonable relation to this state; or
  - Include a party that is a resident of this state or the United States.
- Clarifies that foreign judgments issued by United States territories are entitled to full faith and credit in this state under the Florida Enforcement of Foreign Judgments Act.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

[14] Executive Office of the Governor, *House Bill 917 Veto Message* (April 13, 2012).

By the Committee on Judiciary; and Senator Diaz de la Portilla

590-02600-13 2013186c1

A bill to be entitled

An act relating to the jurisdiction of the courts; amending s. 48.193, F.S.; providing that a person submits to the jurisdiction of the courts of this state by entering into a contract that specifies that the law of this state governs the contract and that the person agrees to submit to the jurisdiction of the courts of this state; amending s. 55.502, F.S.; revising the definition of the term "foreign judgment" for purposes of the Florida Enforcement of Foreign Judgments Act; amending s. 684.0002, F.S.; clarifying the circumstances under which an arbitration is international; amending s. 684.0003, F.S.; correcting a cross-reference; amending s. 684.0019, F.S.; limiting the application of certain provisions to instances in which an arbitral tribunal orders a party to preserve evidence that may be relevant and material to the resolution of a dispute; amending s. 684.0026, F.S.; correcting a cross-reference in the Florida International Commercial Arbitration Act; creating s. 684.0049, F.S.; providing that the initiation of arbitration in this state, or the making of a written agreement to arbitrate which provides for arbitration in this state, constitutes a consent to exercise in personam jurisdiction by the courts of this state; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

590-02600-13 2013186c1

Section 1. Subsection (1) of section 48.193, Florida Statutes, is amended to read:

48.193 Acts subjecting person to jurisdiction of courts of state.—

(1) A ~~Any~~ person, whether or not a citizen or resident of this state, who personally or through an agent does any of the acts enumerated in this subsection thereby submits himself or herself and, if he or she is a natural person, his or her personal representative to the jurisdiction of the courts of this state for any cause of action arising from ~~the doing of~~ any of the following acts:

(a) Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.

(b) Committing a tortious act within this state.

(c) Owning, using, possessing, or holding a mortgage or other lien on any real property within this state.

(d) Contracting to insure a ~~any~~ person, property, or risk located within this state at the time of contracting.

(e) With respect to a proceeding for alimony, child support, or division of property in connection with an action to dissolve a marriage or with respect to an independent action for support of dependents, maintaining a matrimonial domicile in this state at the time of the commencement of this action or, if the defendant resided in this state preceding the commencement of the action, whether cohabiting during that time or not. This paragraph does not change the residency requirement for filing an action for dissolution of marriage.

(f) Causing injury to persons or property within this state

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 arising out of an act or omission by the defendant outside this
60 state, if, at or about the time of the injury, either:
61 1. The defendant was engaged in solicitation or service
62 activities within this state; or
63 2. Products, materials, or things processed, serviced, or
64 manufactured by the defendant anywhere were used or consumed
65 within this state in the ordinary course of commerce, trade, or
66 use.
67 (g) Breaching a contract in this state by failing to
68 perform acts required by the contract to be performed in this
69 state.
70 (h) With respect to a proceeding for paternity, engaging in
71 the act of sexual intercourse within this state with respect to
72 which a child may have been conceived.
73 (i) Entering into a contract that complies with s. 685.102.
74 Section 2. Subsection (1) of section 55.502, Florida
75 Statutes, is amended to read:
76 55.502 Construction of act.—
77 (1) As used in ss. 55.501-55.509, the term "foreign
78 judgment" means a ~~any~~ judgment, decree, or order of a court of
79 any other state, territory or commonwealth of the United States,
80 or of the United States if such judgment, decree, or order is
81 entitled to full faith and credit in this state.
82 Section 3. Subsection (3) of section 684.0002, Florida
83 Statutes, is amended to read:
84 684.0002 Scope of application.—
85 (3) An arbitration is international if:
86 (a) The parties to an arbitration agreement have, at the
87 time of the conclusion of that agreement, their places of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

88 business in different countries; or
89 (b) One of the following places is situated outside the
90 country in which the parties have their places of business:
91 1. The place of arbitration if determined in, or pursuant
92 to, the arbitration agreement; or
93 2. Any place where a substantial part of the obligations of
94 the commercial relationship are to be performed or the place
95 with which the subject matter of the dispute is most closely
96 connected; or
97 (c) The parties have expressly agreed that the subject
98 matter of the arbitration agreement relates to more than one
99 country.
100 Section 4. Subsection (2) of section 684.0003, Florida
101 Statutes, is amended to read:
102 684.0003 Definitions and rules of interpretation.—
103 (2) A provision of this chapter, except s. 684.0039 ~~s.~~
104 ~~684.0039~~, which leaves the parties free to determine a certain
105 issue, includes the right of the parties to authorize a third
106 party, including an institution, to make that determination.
107 Section 5. Section 684.0019, Florida Statutes, is amended
108 to read:
109 684.0019 Conditions for granting interim measures.—
110 (1) The party requesting an interim measure under s.
111 684.0018 shall ~~must~~ satisfy the arbitral tribunal that:
112 (a) Harm not adequately reparable by an award of damages is
113 likely to result if the measure is not ordered, and such harm
114 substantially outweighs the harm that is likely to result to the
115 party against whom the measure is directed if the measure is
116 granted; and

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

117 (b) A reasonable possibility exists that the requesting
118 party will succeed on the merits of the claim. The determination
119 on this possibility does not affect the discretion of the
120 arbitral tribunal in making any subsequent determination.
121 (2) With regard to a request for an interim measure under
122 s. 684.0018(4) ~~s. 684.0018~~, the requirements in subsection (1)
123 apply only to the extent the arbitral tribunal considers
124 appropriate.
125 Section 6. Section 684.0026, Florida Statutes, is amended
126 to read:
127 684.0026 Recognition and enforcement.—
128 (1) An interim measure issued by an arbitral tribunal must
129 ~~shall~~ be recognized as binding and, unless otherwise provided by
130 the arbitral tribunal, enforced upon application to the
131 competent court, irrespective of the country in which it was
132 issued, subject to s. 684.0027 ~~s. 684.0019(1)~~.
133 (2) The party who is seeking or has obtained recognition or
134 enforcement of an interim measure shall promptly inform the
135 court of the termination, suspension, or modification of the
136 interim measure.
137 (3) The court where recognition or enforcement is sought
138 may, if it considers it proper, order the requesting party to
139 provide appropriate security if the arbitral tribunal has not
140 already made a determination with respect to security or if such
141 a decision is necessary to protect the rights of third parties.
142 Section 7. Section 684.0049, Florida Statutes, is created
143 to read:
144 684.0049 Consent to jurisdiction.—The initiation of
145 arbitration in this state, or the making of a written contract,

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

146 agreement, or undertaking to arbitrate which provides for
147 arbitration in this state, constitutes a consent to exercise in
148 personam jurisdiction by the courts of this state in any action
149 arising out of or in connection with the arbitration and any
150 resulting order or award.
151 Section 8. This act shall take effect July 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Jurisdiction of the Courts

Bill Number: SB 186 *(if applicable)*

Name: Carolyn Johnson

Amendment Barcode: *(if applicable)*

Job Title: Director of Business, Economic Development & Innovation

Address: 136 S Bronough St
Street

Tallahassee, FL 32311
City, State, Zip

Phone: 850-521-1235

E-mail: cjohnson@flchamber.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: FL Chamber of Commerce

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Jurisdiction of Courts

Bill Number: 186 (if applicable)

Name: Tammy Perdue

Amendment Barcode: (if applicable)

Job Title: General Counsel

Address: 516 N. Adams St
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850-224-7173

E-mail: tperdue@gif.com

Speaking: [x] For [ ] Against [ ] Information

Representing: AJF

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Jurisdiction of Courts/Arbitration

Bill Number: CS/SB 186 (if applicable)

Name: Phillip A. Buhler

Amendment Barcode: (if applicable)

Job Title: Board Member - ILS/Fla. Bar

Address: 501 W. Bay St.
Street

Jacksonville FL. 32202
City State Zip

Phone: 904-356-1306

E-mail: pabuhler@mpbf.com

Speaking: [x] For [ ] Against [ ] Information

Representing: International Law Section - Florida Bar

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

Tracy

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on Finance and Tax
Banking and Insurance
Children, Families, and Elder Affairs
Ethics and Elections
Rules
Transportation

JOINT COMMITTEE:
Joint Committee on Administrative Procedures

SENATOR MIGUEL DIAZ de la PORTILLA
40th District

March 19, 2013

The Honorable John Thrasher
Chairman
Senate Rules Committee

Via Email

Dear Chairman Thrasher:

My Senate Bill 186, Jurisdiction of Courts, has passed unanimously out of the Committees on Commerce and Tourism and Judiciary. The next reference is Rules. I would appreciate it if you would agenda the bill at the next available meeting.

Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla
State Senator, District 40

Cc: Mr. John Phelps, Staff Director
Ms. Tamra Lyon, Committee Administrative Assistant

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
❒ 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: *www.flsenate.gov*

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 402

INTRODUCER: Senator Joyner

SUBJECT: Homelessness

DATE: March 29, 2013 REVISED: 03/07/13

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	**Favorable**
2.	Everette	Eichin	TR	**Fav/1 amendment**
3.	Hendon	Phelps	RC	**Pre-meeting**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☐	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☒	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

SB 402 allows for a voluntary contribution to support grants to assist the homeless. Specifically, the bill:

- Authorizes the Department of Highway Safety and Motor Vehicles (DHSMV or department) to collect a voluntary contribution of $1 through motor vehicle registration and driver license fees, both initial and renewal fees, to aid the homeless;
- Exempts the Department of Children and Family Services (DCF or department) and/or the State Office on Homelessness from the required $10,000 to process the application;
- Replaces the current emergency assistance program with a newly-created homeless prevention grant program; and
- Limits the amount a lead agency may spend on administrative costs under a Challenge Grant.

The bill has an insignificant fiscal impact on the state and has an effective date of July 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 320.02, 322.08, 322.18, 420.622, and 420.625. This bill creates section 414.161 and repeals section 414.16, of the Florida Statutes.

II. Present Situation:

The Council on Homelessness and the State Office on Homelessness

The Council on Homelessness (council) and the State Office on Homelessness (office) were created in 2001 within the Department of Children and Families.[1] The 17-member council is comprised of representatives of state agencies, counties, homeless advocacy organizations, and volunteers.[2] The council is to develop policy and advise the office.[3]

The office coordinates state agency responses to homelessness, serves as a single point of contact on homeless issues in the state, and administers state-funded grant programs that support the activities of the 27 local homeless coalitions.[4] The office administers all homelessness grants through lead agencies. The lead agency has the responsibility for continuum of care plans that help communities or regions envision, plan, and implement comprehensive and long-term solutions to the problem of homelessness.[5] Lead agencies are also authorized applicants for the Challenge Grant and the Homeless Housing Assistance Grant.

Emergency Financial Assistance Program

This state grant program provides support to families, with at least one minor child, who are currently without shelter or face the loss of shelter because of the following:[6]

- Nonpayment of rent or mortgage resulting in eviction or notice of eviction;
- Household disaster that renders the home uninhabitable; or
- Other emergency situations defined in rule.

Families may receive up to $400 during one period of 30 consecutive days in any 12 consecutive months.[7] DCF serves approximately 2,000 families a year under this program and utilizes OPS staff to assess eligibility and process payments.[8]

Homeless Housing Assistance Grants

This state grant program provides homeless housing assistance grants up to $750,000 annually to lead agencies to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons.[9] Administrative costs are capped at 5 percent of the funds awarded.[10]

---

[1] Chapter 2001-98, Laws of Fla.
[2] Section 420.622, F.S.
[3] *Id*.
[4] Id.
[5] Section 420.642, F.S.
[6] Section 414.16, F.S.
[7] Rule 65A-33.011, F.A.C.
[8] Department of Children and Family Services, *Staff Analysis and Economic Impact*. *SB 1130*.(Nov. 2, 2011.) (On file with the Senate Committee on Children, Families, and Elder Affairs.)
[9] Section 420.622, F.S.
[10] *Id*.

Challenge Grant

This program provides grants of up to $500,000 to lead agencies who have developed and implemented a local homeless assistance continuum of care plan. The plan must detail how outreach, emergency shelter, support services, and permanent shelter will be provided in the area.[11] The state currently has 28 local homeless continuum of care planning areas that receive state grants. Currently, state law does not provide for a limit on or use of grant funds for administrative costs incurred by lead agencies.

Voluntary Contributions

The voluntary contributions process provides the opportunity for citizens to make a donation by checking a box on a form when registering a vehicle or renewing a registration, as well as applying for a new replacement or driver license.[12]

An organization that desires to receive a voluntary contribution must be specifically authorized by Florida Statutes. Section 320.023, F.S., establishes requirements for organizations seeking to establish a voluntary contribution on motor vehicle registration application forms, and s. 322.081, F.S., establishes similar requirements for driver license applications. Both sections require the following:

- A request for the voluntary contribution being sought, describing the voluntary contribution in general terms;
- An application fee, not to exceed $10,000 to defray the department's cost for reviewing the application and developing the voluntary contribution check off, if authorized. State funds may not be used to pay the application fee; and
- A marketing strategy outlining short-term and long-term marketing plans for the contribution and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the contributions.

This information must be submitted to DHSMV at least 90 days before the convening of the next regular session of the Legislature.

Chapter 2010-223, L.O.F., provides that DHSMV may not establish any new voluntary contributions on the motor vehicle registration application form under s. 320.023, F.S., or the driver license application form under s. 322.081, F.S., between July 1, 2010, and July 1, 2013. However, DHSMV may establish a voluntary contribution for an organization that has:

- Submitted a request to the department before May 1, 2010, to establish a voluntary contribution on a motor vehicle registration application under s. 320.023, F.S., or a driver license application under s. 322.081, F.S.; and

[11] *Id*.
[12] Currently, Section 320.02(8)(14) and (15), F.S.; Section 320.08047, F.S., and Section 328.72(11) and (16), F.S., provide motor vehicle registration applicants with 20 options for voluntary contributions. Section 322.08(7), F.S., provides driver license applicants with 15 options for voluntary contributions.

- Submitted a valid financial analysis, marketing strategy, and application fee before September 1, 2010; or
- Filed a bill during the 2010 Legislative Session to establish a voluntary contribution and have met the requirements of s. 320.023 or s. 322.081, F.S.[13]

III. Effect of Proposed Changes:

Voluntary Contributions

Sections 1, 2, and 3 of the bill authorize the collection of voluntary contributions in the amount of $1.00 to be added to the motor vehicle and driver license fees — initial and renewal fees — to aid the homeless. The bill does not require that the voluntary contributions be subject to the procedures and limitations of ss. 320.023, F.S., and 322.081, F.S., including payment of the application fee. Funds will be placed in the Grants and Donations Trust Fund within the Department of Children and Families for use by the office to supplement Challenge Grants and Homeless Housing Assistance Grants and to provide information on homelessness to the public.

There is currently a moratorium on the establishment of any new voluntary contributions on motor vehicle registration application and driver license application forms until July 1, 2013.[14] According to the DHSMV, neither the Department of Children and Family Services nor the State Office of Homelessness has met the moratorium requirements set above.[15]

Grant Programs

Sections 4 through 7 of the bill repeal provisions relating to the Emergency Assistance Program and replace it with a Homelessness Prevention Grant Program. The new program will be administered by the Office on Homelessness at DCF, with the concurrence of the Council on Homelessness. The office may provide prevention grants through contracts with local lead agencies for homeless assistance continuums of care. The bill specifies the grant application process and certain preferences for applicants who can leverage additional funds and demonstrate effective programs. Eligibility for the grant program is limited to lead agencies who have implemented a local homeless assistance plan for their area. The grants are capped at $300,000 and may be used to assist families facing the loss of their current home in paying past due rent and mortgage payments, past due utility bills, and case management. Program administrative costs are capped at 3 percent of the grant award.

The bill caps administrative costs for lead agencies administering Challenge Grants at 8 percent. Challenge Grant awards may be up to $500,000 per lead agency.

Section 8 provides for an effective date of July 1, 2013.

---

[13] Chapter 2010-223, Laws of Fla.
[14] This bill, however, circumvents the moratorium requirements in Sections 320.023 and 322.081, F.S.
[15] Department of Highway Safety and Motor Vehicles. *Agency Bill Analysis. SB 1130.* (November 15, 2011). (On file with the Senate Committee on Children, Families, and Elder Affairs.)

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

According to the Department of Children and Families, the voluntary contributions from motor vehicle registrations and renewals, and original or renewal driver licenses could provide an estimated $20,000 in trust funds.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Fiscal Impact	**Fiscal Year 2013-14**		
Department Highway Safety and Motor Vehicles	**GR**	**Trust**	**Total**
Redesign forms	$0	$65,600	$65,600
Review application	$0	$10,000	$10,000
Total	$0	$75,600	$75,600

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

Barcode 885432 by Transportation on March 7, 2013:
Amendment changes the bill's effective date from July 1, 2013 to October 1, 2013.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Joyner

19-00162B-13 2013402__

A bill to be entitled

An act relating to homelessness; amending ss. 320.02, 322.08, and 322.18, F.S.; requiring the motor vehicle registration form and registration renewal form, the driver license application form, and the driver license application form for renewal issuance or renewal extension to include an option to make a voluntary contribution to aid the homeless; providing for such contributions to be deposited into the Grants and Donations Trust Fund of the Department of Children and Families and used by the State Office on Homelessness for certain purposes; providing exemption from certain application fee requirements; providing that voluntary contributions for the homeless are not income of a revenue nature for the purpose of applying certain service charges; creating s. 414.161, F.S.; establishing a homelessness prevention grant program; requiring grant applicants to be ranked competitively; providing preference for certain grant applicants; providing eligibility requirements; providing grant limitations and restrictions; requiring lead agencies for local homeless assistance continuums of care to track, monitor, and report on assisted families for a specified period; amending s. 420.622, F.S.; limiting the percentage of funding that lead agencies may spend on administrative costs; amending s. 420.625, F.S.; deleting a cross-reference to conform; repealing s. 414.16, F.S., relating to the emergency assistance program for families with children that have lost

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

19-00162B-13 2013402__

shelter or face loss of shelter due to an emergency; transferring emergency assistance program funds to the homelessness prevention grant program; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (s) is added to subsection (15) of section 320.02, Florida Statutes, to read:

320.02 Registration required; application for registration; forms.—

(15)

(s) Notwithstanding s. 320.023, the application form for motor vehicle registration and renewal of registration must include language permitting a voluntary contribution of $1 per applicant to aid the homeless. Contributions made pursuant to this paragraph shall be deposited into the Grants and Donations Trust Fund of the Department of Children and Families and used by the State Office on Homelessness to supplement grants made under s. 420.622(4) and (5), provide information to the public about homelessness in the state, and provide literature for homeless persons seeking assistance. The application fee required under s. 320.023 for an organization that seeks authorization to establish a voluntary contribution does not apply to this paragraph.

For the purpose of applying the service charge provided in s. 215.20, contributions received under this subsection are not income of a revenue nature.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 Section 2. Subsection (7) of section 322.08, Florida
60 Statutes, is amended to read:
61 322.08 Application for license; requirements for license
62 and identification card forms.—
63 (7) The application form for an original, renewal, or
64 replacement driver license or identification card shall include
65 language permitting the following:
66 (a) A voluntary contribution of $1 per applicant, which
67 contribution shall be deposited into the Health Care Trust Fund
68 for organ and tissue donor education and for maintaining the
69 organ and tissue donor registry.
70 (b) A voluntary contribution of $1 per applicant, which
71 contribution shall be distributed to the Florida Council of the
72 Blind.
73 (c) A voluntary contribution of $2 per applicant, which
74 shall be distributed to the Hearing Research Institute,
75 Incorporated.
76 (d) A voluntary contribution of $1 per applicant, which
77 shall be distributed to the Juvenile Diabetes Foundation
78 International.
79 (e) A voluntary contribution of $1 per applicant, which
80 shall be distributed to the Children's Hearing Help Fund.
81 (f) A voluntary contribution of $1 per applicant, which
82 shall be distributed to Family First, a nonprofit organization.
83 (g) A voluntary contribution of $1 per applicant to Stop
84 Heart Disease, which shall be distributed to the Florida Heart
85 Research Institute, a nonprofit organization.
86 (h) A voluntary contribution of $1 per applicant to Senior
87 Vision Services, which shall be distributed to the Florida

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

88 Association of Agencies Serving the Blind, Inc., a not-for-
89 profit organization.
90 (i) A voluntary contribution of $1 per applicant for
91 services for persons with developmental disabilities, which
92 shall be distributed to The Arc of Florida.
93 (j) A voluntary contribution of $1 to the Ronald McDonald
94 House, which shall be distributed each month to Ronald McDonald
95 House Charities of Tampa Bay, Inc.
96 (k) Notwithstanding s. 322.081, a voluntary contribution of
97 $1 per applicant, which shall be distributed to the League
98 Against Cancer/La Liga Contra el Cancer, a not-for-profit
99 organization.
100 (l) A voluntary contribution of $1 per applicant to Prevent
101 Child Sexual Abuse, which shall be distributed to Lauren's Kids,
102 Inc., a nonprofit organization.
103 (m) A voluntary contribution of $1 per applicant, which
104 shall be distributed to Prevent Blindness Florida, a not-for-
105 profit organization, to prevent blindness and preserve the sight
106 of the residents of this state.
107 (n) Notwithstanding s. 322.081, a voluntary contribution of
108 $1 per applicant to the state homes for veterans, to be
109 distributed on a quarterly basis by the department to the State
110 Homes for Veterans Trust Fund, which is administered by the
111 Department of Veterans' Affairs.
112 (o) A voluntary contribution of $1 per applicant to the
113 Disabled American Veterans, Department of Florida, which shall
114 be distributed quarterly to Disabled American Veterans,
115 Department of Florida, a nonprofit organization.
116 (p) A voluntary contribution of $1 per applicant for Autism

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

117 Services and Supports, which shall be distributed to Achievement
118 and Rehabilitation Centers, Inc., Autism Services Fund.
119 (q) A voluntary contribution of $1 per applicant to Support
120 Our Troops, which shall be distributed to Support Our Troops,
121 Inc., a Florida not-for-profit organization.
122 (r) Notwithstanding s. 322.081, a voluntary contribution of
123 $1 per applicant to aid the homeless. Contributions made
124 pursuant to this paragraph shall be deposited into the Grants
125 and Donations Trust Fund of the Department of Children and
126 Families and used by the State Office on Homelessness to
127 supplement grants made under s. 420.622(4) and (5), provide
128 information to the public about homelessness in the state, and
129 provide literature for homeless persons seeking assistance.
130
131 A statement providing an explanation of the purpose of the trust
132 funds shall also be included. For the purpose of applying the
133 service charge provided in s. 215.20, contributions received
134 under paragraphs (b)-(r) ~~(b)-(q)~~ are not income of a revenue
135 nature.
136 Section 3. Subsection (9) is added to section 322.18,
137 Florida Statutes, to read:
138 322.18 Original applications, licenses, and renewals;
139 expiration of licenses; delinquent licenses.—
140 (9) The application form for a renewal issuance or renewal
141 extension shall include language permitting a voluntary
142 contribution of $1 per applicant to aid the homeless.
143 Contributions made pursuant to this subsection shall be
144 deposited into the Grants and Donations Trust Fund of the
145 Department of Children and Families and used by the State Office

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

146 on Homelessness to supplement grants made under s. 420.622(4)
147 and (5), provide information to the public about homelessness in
148 the state, and provide literature for homeless persons seeking
149 assistance. For the purpose of applying the service charge
150 provided in s. 215.20, contributions received under this
151 subsection are not income of a revenue nature.
152 Section 4. Section 414.161, Florida Statutes, is created to
153 read:
154 414.161 Homelessness prevention grants.—
155 (1) ESTABLISHMENT OF PROGRAM.—There is created a grant
156 program to provide emergency financial assistance to families
157 facing the loss of their current home due to a financial or
158 other crisis. The State Office on Homelessness, with the
159 concurrence of the Council on Homelessness, may accept and
160 administer moneys appropriated to the Department of Children and
161 Families to provide homelessness prevention grants annually to
162 lead agencies for local homeless assistance continuums of care,
163 as recognized by the State Office on Homelessness. These moneys
164 shall consist of any sums that the state may appropriate, as
165 well as money received from donations, gifts, bequests, or
166 otherwise from any public or private source that is intended to
167 assist families to prevent them from becoming homeless.
168 (2) GRANT APPLICATIONS.—Grant applicants shall be ranked
169 competitively. Preference shall be given to applicants who
170 leverage additional private funds and public funds, who
171 demonstrate the effectiveness of their homelessness prevention
172 programs in keeping families housed, and who demonstrate the
173 commitment of other assistance and services to address family
174 health, employment, and education needs.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

175 (3) ELIGIBILITY.—In order to qualify for a grant, a lead
176 agency must develop and implement a local homeless assistance
177 continuum of care plan for its designated catchment area. The
178 homelessness prevention program must be included in the
179 continuum of care plan.
180 (4) GRANT LIMITS.—The maximum grant amount per lead agency
181 may not exceed $300,000. The grant assistance may be used to pay
182 past due rent or mortgage payments, past due utility costs,
183 provision of case management services, and program
184 administration costs not to exceed 3 percent of the grant award.
185 The homelessness prevention program must develop a case plan for
186 each family to be assisted, setting forth what costs will be
187 covered and the maximum level of assistance to be offered.
188 (5) PERFORMANCE.—The lead agency must track, monitor, and
189 report on each family assisted for at least 12 months after the
190 last assistance provided to the family. The goal for the
191 homelessness prevention program is to enable at least 85 percent
192 of the families assisted to remain in their homes and avoid
193 becoming homeless during the ensuing year.
194 Section 5. Paragraph (d) is added to subsection (4) of
195 section 420.622, Florida Statutes, to read:
196 420.622 State Office on Homelessness; Council on
197 Homelessness.—
198 (4) Not less than 120 days after the effective date of this
199 act, the State Office on Homelessness, with the concurrence of
200 the Council on Homelessness, may accept and administer moneys
201 appropriated to it to provide "Challenge Grants" annually to
202 lead agencies for homeless assistance continuums of care
203 designated by the State Office on Homelessness. A lead agency

204 may be a local homeless coalition, municipal or county
205 government, or other public agency or private, not-for-profit
206 corporation. Such grants may be up to $500,000 per lead agency.
207 (d) A lead agency may spend a maximum of 8 percent of its
208 funding on administrative costs.
209 Section 6. Paragraph (d) of subsection (3) of section
210 420.625, Florida Statutes, is amended to read:
211 420.625 Grant-in-aid program.—
212 (3) ESTABLISHMENT.—There is hereby established a grant-in-
213 aid program to help local communities in serving the needs of
214 the homeless through a variety of supportive services, which may
215 include, but are not limited to:
216 (d) Emergency financial assistance for persons who are
217 totally without shelter or facing loss of shelter~~, but who are~~
218 ~~not eligible for such assistance under s. 414.16~~.
219 Section 7. Section 414.16, Florida Statutes, is repealed,
220 and any balances remaining in the emergency assistance program
221 terminated by this act shall, on the date of termination, be
222 transferred to the homelessness prevention grant program created
223 under s. 414.161, Florida Statutes.
224 Section 8. This act shall take effect July 1, 2013.

Ì885432'Î885432

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/08/2013	.	
	.	
	.	
	.	

The Committee on Transportation (Joyner) recommended the following:

1 **Senate Amendment**
2
3 Delete line 224
4 and insert:
5
6 Section 8. This act shall take effect October 1, 2013.
7
8

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice, *Vice Chair*
Appropriations
Appropriations Subcommittee on General Government
Ethics and Elections
Health Policy
Judiciary
Transportation

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR ARTHENIA L. JOYNER
19th District

March 7, 2013

Senator John Thrasher, Chair
Senate Committee on Rules
402 Senate
404 S. Monroe Street
Tallahassee, FL 32399-1100

RECEIVED
MAR 07 2013
RULES COMMITTEE

Dear Chairman Lee:

This is to request that CS/Senate Bill 402, Homelessness, be placed on the agenda for the Committee on Rules. Your consideration of this request is greatly appreciated.

Sincerely,

Arthenia L. Joyner
State Senator, District 19

REPLY TO:
☐ 508 W. Dr. Martin Luther King, Jr. Blvd., Suite C, Tampa, Florida 33603-3415 (813) 233-4277
☐ 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019 FAX: (813) 233-4280

Senate's Website: *www.flsenate.gov*

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 604

INTRODUCER: Senator Bean

SUBJECT: Practitioners

DATE: March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McElheney	Stovall	HP	**Favorable**
2.	Munroe	Cibula	JU	**Favorable**
3.	McElheney	Phelps	RC	**Pre-meeting**
4.				
5.				
6.				

I. Summary:

SB 604 reorganizes the provisions relating to fees for organizations licensed or permitted and persons certified under part III of ch. 401, F.S., relating to medical transportation services. The bill directs fees collected for certification of emergency medical technicians (EMTs) and paramedics to be deposited into the Medical Quality Assurance Trust Fund, rather than the Emergency Medical Services Trust Fund.

The bill clarifies that the Department of Financial Services (DFS) must defend any claim, suit, action, or proceeding for injunctive, affirmative, or declaratory relief against an impaired practitioner consultant involving emergency interventions on behalf of impaired practitioners or students.

The bill expands access to the prescription drug monitoring program database to an impaired practitioner consultant upon consent of the impaired practitioner for the purpose of reviewing the impaired practitioner's controlled substance prescription history.

This bill substantially amends the following sections of the Florida Statutes: 401.34, 456.076, 893.055, and 893.0551.

II. Present Situation:

Emergency Medical Services

Part III of ch. 401, F.S., pertains to medical transportation services. Among other things, this part provides for the certification of a person to act as an EMT, paramedic, or 911 public safety

telecommunicator; licensing of an organization to provide basic life support (BLS) service, advanced life support (ALS) service, or air ambulance service; and permitting of vehicles to be operated as a basic support or advance support transport vehicle or an ALS nontransport vehicle providing BLS or ALS. Organizationally, this program is under the Division of Emergency Preparedness and Community Support (EPCS) within the Department of Health (DOH).

Fees for certification, licensing, and permitting must be deposited into the Emergency Medical Services Trust Fund and applied solely for salaries and expenses of the department incurred in implementing and enforcing part III of ch. 401, F.S.[1]

Currently, the fees are used to:

- Process EMT and paramedic certification, recertification and testing;
- Fund 66 percent of the state EMS medical director's contracted salary; and
- Fund a portion of the salaries of 10 EMS staff members to:
  - License, permit, and inspect 274 ALS, BLS, and air medical service providers having 4,335 permitted vehicles;
  - Approve and inspect 71 EMT and paramedic training programs;
  - Oversee 32 EMT and paramedic recertification training programs; and
  - Provide administrative support.

The 10 EMS staff, through additional funding sources, also investigate complaints and discipline EMS providers, training programs, and 911 public safety telecommunicators. According to the DOH, funding provided by county courts per s. 318.21(2)(b), F.S., which is intended to fund 100 percent of the 10 EMS positions and the state EMS medical director, is inadequate to support these positions. Revenue from licensing fees for the 2-year, 2010-2012 licensure cycle totaled $2,518,750 while expenses were approximately $3,860,354.[2]

The EPCS and the Division of Medical Quality Assurance (MQA) have a Memorandum of Understanding in effect which authorizes the MQA to charge EPCS for services relating to the licensure of EMTs and paramedics. The charges derived from the MQA regulatory functions exceed the amount of funding EPCS receives from licensing revenues of EMTs and paramedics. The DEPCS reimburses MQA with available funding.[3]

Medical Quality Assurance Trust Fund

Funds credited to the Medical Quality Assurance Trust Fund consist of fees and fines related to the licensing of health care professionals. Funds must be used for the purpose of providing administrative support for the regulation of health care professionals and for other such purposes as may be appropriate pursuant to legislative appropriation.[4]

---

[1] See ss. 401.34 and 401.465(3), F.S.
[2] Department of Health Bill Analysis for SB 604 (March 1, 2013) (on file with the Senate Committee on Judiciary).
[3] *Ibid.*
[4] Section 20.435 (4), F.S.

Impaired Practitioner Treatment Program

Health care practitioners are regulated under various practice acts and the general regulatory provisions of ch. 456, F.S. Under s. 456.072(1)(z), F.S., disciplinary action may be taken against a licensed health care professional who is unable to practice with reasonable skill and safety due to illness; use of alcohol, drugs, narcotics, chemicals or any other type of material; or as the result of any mental or physical condition. The impaired practitioner treatment program was created to help treat practitioners who are impaired due to alcohol or substance abuse.

By entering and successfully completing the program, a practitioner may avoid formal disciplinary action by his or her board, if his or her only violation of the practice regulations is the impairment. Disciplinary action will not be taken if the practitioner acknowledges his or her impairment, voluntarily enrolls in an approved treatment program, and voluntarily withdraws from his or her practice or limits the scope of his or her practice as determined by the probable cause panel of the appropriate board until such time as the panel is satisfied that the practitioner has successfully completed the treatment program.[5] To avoid discipline, the practitioner must also execute releases for medical records authorizing the release of all records of evaluation, diagnosis, and treatment to the impaired practitioner treatment program consultant.[6]

Section 456.076, F.S., requires the DOH to retain one or more impaired practitioner consultants to assist in determining whether a practitioner is impaired and to monitor the treatment of the impaired practitioner. An impaired practitioner consultant may also contract for services to be provided by a school for students enrolled in schools for licensure as allopathic physicians, physicians assistants, osteopathic physicians, nurses, or pharmacists who are alleged to be impaired as a result of the misuse or abuse of alcohol or drugs, or both, or due to a mental or physical condition.

The consultant must be a practitioner or recovered practitioner who is a Florida-licensed medical physician, osteopathic physician, physician assistant, anesthesiology assistant, or nurse. In the alternative, a consultant may be an entity employing a medical director who is so licensed. Consultants must refer impaired practitioners to department-approved treatment programs and providers.[7] Although consultants do not provide medical treatment, they are required to make recommendations to the DOH regarding a practitioner's ability to practice.

The DOH currently contracts with the Intervention Project for Nurses (IPN) for licensed nurses and the Professional Resource Network (PRN) for all other licensed professions for impaired practitioner consultant services.

The relationship of PRN and IPN to the practitioner involves monitoring only and there is no doctor-patient relationship, therefore PRN and IPN consultants have no authority to access the Prescription Drug Monitoring Program database.

An impaired practitioner consultant, the consultant's officers and employees, and those acting at the direction of the consultant for the limited purpose of an emergency intervention on behalf of

[5] Section 456.076(3)(a), F.S.
[6] *Id*.
[7] *See* s. 456.076, F.S.

a licensee or student when the consultant is unable to perform the intervention are considered agents of the DOH for purposes of s. 768.28, F.S., (related to sovereign immunity) while acting within the scope of the consultant's duties under the contract with the DOH.[8] The DFS currently defends any claim, suit, action or proceeding against the consultant for the limited purpose of an emergency intervention on behalf of a licensee or student when the consultant is unable to perform the intervention if the act or omission arises out of and is in the scope of the consultant's contractual duties.[9]

Prescription Drug Monitoring Program

Chapter 2009-197, L.O.F, established the Prescription Drug Monitoring Program (PDMP) in s. 893.005, F.S. The PDMP is a comprehensive electronic system to monitor the prescribing and dispensing of certain controlled substances. Dispensers of certain controlled substances must report specified information to the PDMP, including the patient's name to whom the controlled substance is dispensed and other dispensing information.

Direct access to the PDMP is presently limited to medical doctors, osteopathic physicians, dentists, podiatric physicians, advanced registered nurse practitioners, physician assistants, and pharmacists. Indirect access to the PDMP is provided to: (1) the DOH or its relevant health care regulatory boards; (2) the attorney general for Medicaid fraud cases; (3) a law enforcement agency; and (4) a patient or the legal guardian or designated health care surrogate of an incapacitated patient.

Section 893.0551, F.S., enacted at the same time, provides a public records exemption for personal information of a patient and certain information concerning health care professionals outlined in the statute. This section sets forth enumerated exceptions for disclosure of this information after the DOH ensures the legitimacy of the person's request for the information.

III. Effect of Proposed Changes:

Section 1 amends s. 401.34, F.S., reorganizing the provisions relating to license fees for EMTs and paramedics. All license fees for EMTs and paramedics that are currently deposited into the EMS trust fund will instead be deposited into the MQA trust fund.

Section 2 amends s. 456.076, F.S., providing that the DFS defend any claim suit, action, or proceeding, *including injunctive, affirmative, or declaratory relief*, against an impaired practitioner consultant involving emergency interventions on behalf of impaired practitioners when the consultant is unable to perform the intervention if the act or omission arises out of and is in the scope of the consultant's contractual duties. Thus, if an action for injective, affirmative, or declaratory relief is filed against an impaired practitioner consultant, the DFS has clear statutory authority to defend the action.

Sections 3 and 4 amends s. 893.055 and s. 893.0551, F.S., respectively, to define "impaired practitioner consultant" and expand access to the PDMP to impaired practitioner consultants upon consent of the impaired practitioner for the purpose of reviewing the impaired

[8] Section 456.076(7)(a), F.S.
[9] Section 456.076(7)(b), F.S.

practitioner's controlled substance prescription history. The bill authorizes impaired practitioner consultants to have direct access to the PDMP for the purpose of reviewing the controlled substance prescription history of an impaired practitioner who has agreed to be evaluated or monitored through the PDMP by the consultant.

The bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Because this bill provides for release of information that is already confidential and exempt under s. 893.0551, F.S., to an impaired practitioner consultant, the bill is not subject to the requirements of s. 24, Article I of the State Constitution and ch. 119, F.S., related to creating or expanding a public records exemption.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill deposits fees into the MQA trust fund which currently are deposited into the EMS trust fund. The bill does not specify what the funds will be used for or otherwise revise specific duties and responsibilities of the EMS program or the MQA. Revenue from licensing fees for 2010-2011 and 2011-2012 totaled $2,518,750. Expenditures are currently $3,860,354 (average from 2006-2012) for a 2-year period. Revenue and expenditures vary dramatically during a recertification year so the revenue and expenditure amounts reflect a 2-year period to show appropriate numbers.[10]

B. Private Sector Impact:

If an action for injective, affirmative, or declaratory relief is filed against an impaired practitioner consultant, the DFS has clear statutory authority to defend the action.

Impaired practitioners in the impaired practitioner treatment program will be able to authorize the consultant to use the PDMP as another tool to monitor the practitioner's progress in the treatment program.

[10] *Supra*, fn 2

C. Government Sector Impact:

The licensure fees transferred to MQA under the bill will not be available to fund the salaries of the EMS positions and other expenses currently being incurred.

The DOH indicates that its rule pertaining to access the PDMP will need to be amended to address access to the database by impaired practitioner consultants.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the impaired practitioner consultant to access the PDMP for an impaired practitioner; however, it does not specifically authorize access for a student who is participating in the impaired practitioner treatment program. Given the sensitive nature of access to the PDMP, specifically including students participating in the impaired practitioner program might be appropriate.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Bean

A bill to be entitled

An act relating to practitioners; amending s. 401.34, F.S.; reorganizing provisions relating to license fees for certain practitioners; amending s. 456.076, F.S.; providing that the Department of Financial Services shall defend certain claims, suits, actions, or proceedings for injunctive, affirmative, or declaratory relief involving emergency interventions on behalf of impaired practitioners; amending s. 893.055, F.S.; defining the term "impaired practitioner consultant"; providing that impaired practitioner consultants retained by the Department of Health have access to information in the prescription drug monitoring program's database in certain circumstances; amending s. 893.0551, F.S.; defining the term "impaired practitioner consultant"; allowing impaired practitioner consultants access to certain confidential information in the prescription drug monitoring program's database when necessary to evaluate or monitor a practitioner as part of a treatment program for impaired practitioners; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2) through (7) of section 401.34, Florida Statutes, are redesignated as subsections (3) through (8), respectively, subsection (1) of that section is amended, and a new subsection (2) is added, to read:

401.34 Fees.—

(1) Each organization ~~or person~~ subject to this part must pay to the department the following nonrefundable fees:

(a) Basic life support service license application: $660, to be paid biennially.

(b) Advanced life support service license application: $1,375, to be paid biennially.

(c) Original or renewal vehicle permit application for basic or advanced life support: $25, to be paid biennially.

(d) Air ambulance service application: $1,375, to be paid biennially.

(e) Original or renewal aircraft permit application for air ambulance: $25, to be paid biennially.

(2) Each person subject to this part must pay to the department the following nonrefundable fees, and these fees must be deposited into the Medical Quality Assurance Trust Fund:

(a) ~~(d)~~ Emergency medical technician certification examination application: $40.

(b) ~~(e)~~ Emergency medical technician original certificate application: $35.

(c) ~~(f)~~ Emergency medical technician renewal certificate application: $20, to be paid biennially.

(d) ~~(g)~~ Paramedic certification examination application: $40.

(e) ~~(h)~~ Paramedic original certificate application: $45.

(f) ~~(i)~~ Paramedic renewal certificate application: $45, to be paid biennially.

~~(j) Air ambulance service application: $1,375, to be paid biennially.~~

59 ~~(k) Original or renewal aircraft permit application for air~~
60 ~~ambulance: $25, to be paid biennially.~~
61 Section 2. Paragraph (b) of subsection (7) of section
62 456.076, Florida Statutes, is amended to read:
63 456.076 Treatment programs for impaired practitioners.—
64 (7)
65 (b) In accordance with s. 284.385, the Department of
66 Financial Services shall defend any claim, suit, action, or
67 proceeding, including a claim, suit, action, or proceeding for
68 injunctive, affirmative, or declaratory relief, against the
69 consultant, the consultant's officers or employees, or those
70 acting at the direction of the consultant for the limited
71 purpose of an emergency intervention on behalf of a licensee or
72 student as described in subsection (2) when the consultant is
73 unable to perform such intervention, which claim, suit, action,
74 or proceeding is brought as a result of an ~~any~~ act or omission
75 by any of the consultant's officers and employees and those
76 acting under the direction of the consultant for the limited
77 purpose of an emergency intervention on behalf of the ~~a~~ licensee
78 or student ~~as described in subsection (2)~~ when the consultant is
79 unable to perform such intervention, if the ~~when such~~ act or
80 omission arises out of and is in the scope of the consultant's
81 duties under its contract with the department.
82 Section 3. Paragraphs (f) through (j) of subsection (1) of
83 section 893.055, Florida Statutes, are redesignated as
84 paragraphs (g) through (k), respectively, a new paragraph (f) is
85 added to that subsection, and paragraph (b) of subsection (7) of
86 that section is amended, to read:
87 893.055 Prescription drug monitoring program.—

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

88 (1) As used in this section, the term:
89 (f) "Impaired practitioner consultant" means a consultant
90 retained by the department under s. 456.076.
91 (7)
92 (b)1. A pharmacy, prescriber, or dispenser shall have
93 access to information in the prescription drug monitoring
94 program's database which relates to a patient of that pharmacy,
95 prescriber, or dispenser in a manner established by the
96 department as needed for the purpose of reviewing the patient's
97 controlled substance prescription history.
98 2. An impaired practitioner consultant who is retained by
99 the department shall have access to information in the
100 prescription drug monitoring program's database, in a manner
101 established by the department, if:
102 a. The impaired practitioner has a documented or has
103 acknowledged history of controlled substance abuse.
104 b. The impaired practitioner agrees in writing to be
105 evaluated and monitored through the prescription drug monitoring
106 program.
107 c. The impaired practitioner consultant has access to only
108 those records of impaired practitioners who have provided
109 written consent.
110 3. Other access to the program's database shall be limited
111 to the program's manager and to the designated program and
112 support staff, who may act only at the direction of the program
113 manager or, in the absence of the program manager, as
114 authorized. Access by the program manager or such designated
115 staff is for prescription drug program management only or for
116 management of the program's database and its system in support

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

117 of the requirements of this section and in furtherance of the
118 prescription drug monitoring program. Confidential and exempt
119 information in the database shall be released only as provided
120 in paragraph (c) and s. 893.0551. The program manager,
121 designated program and support staff who act at the direction of
122 or in the absence of the program manager, and any individual who
123 has similar access regarding the management of the database from
124 the prescription drug monitoring program shall submit
125 fingerprints to the department for background screening. The
126 department shall follow the procedure established by the
127 Department of Law Enforcement to request a statewide criminal
128 history record check and to request that the Department of Law
129 Enforcement forward the fingerprints to the Federal Bureau of
130 Investigation for a national criminal history record check.
131 Section 4. Paragraphs (e) through (h) of subsection (1) of
132 section 893.0551, Florida Statutes, are redesignated as
133 paragraphs (f) through (i), respectively, a new paragraph (e) is
134 added to that subsection, and paragraph (h) is added to
135 subsection (3) of that section, to read:
136 893.0551 Public records exemption for the prescription drug
137 monitoring program.—
138 (1) For purposes of this section, the term:
139 (e) "Impaired practitioner consultant" has the same meaning
140 as provided in s. 893.055.
141 (3) The department shall disclose such confidential and
142 exempt information to the following entities after using a
143 verification process to ensure the legitimacy of that person's
144 or entity's request for the information:
145 (h) An impaired practitioner consultant who certifies in

146 writing that the information is necessary to evaluate or monitor
147 a practitioner as part of a treatment program for impaired
148 practitioners.
149 Section 5. This act shall take effect July 1, 2013.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 658

INTRODUCER: Commerce and Tourism Committee, Regulated Industries Committee, Senator Simpson and others

SUBJECT: Wine

DATE: March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	**Fav/CS**
2.	Malcolm	Hrdlicka	CM	**Fav/CS**
3.	Oxamendi	Phelps	RC	**Pre-meeting**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/CS/SB 658 permits the sale of wine in reusable containers of 5.16 gallons. Current law prohibits the sale of wine in individual containers holding more than 1 gallon. The additional allowable container size would allow retail vendors to use wine kegs to dispense glasses of wine through a tap instead of through individual bottles of wine. The bill also provides that wine sold for off-premises consumption must be in the original, unopened container, unless otherwise permitted by law.

This bill amends s. 564.05, F.S.

II. Present Situation:

In Florida, the manufacture, distribution, and sale of wine, beer, and liquor is regulated by the Beverage Law.[1] The Division of Alcoholic Beverage and Tobacco (division) within the

[1] The Beverage Law means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.; *see* s. 561.01(6), F.S..

Department of Business and Professional Regulation is authorized to administer and enforce the Beverage Law.[2]

Three-Tier System

In many states, including Florida, the regulation of alcoholic beverages has traditionally been through what is termed the "three-tier" system.[3] The system requires that the manufacture, distribution, and sale of alcoholic beverages be separated.[4] Each license classification has clearly delineated functions: retailers buy their products from distributors who in turn buy their products from manufacturers. Manufacturers cannot sell directly to retailers or directly to consumers. The system is rooted in the perceived evils of the "tied house" in which a retail vendor, such as a bar, is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.[5]

In Florida, only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail. Vendors are limited to purchasing their alcoholic beverage inventory from licensed distributors, manufacturers, or bottlers.[6]

There are some exceptions to this regulatory system. Exceptions include allowing brew pubs to manufacture malt beverages and sell them to consumers,[7] allowing individuals to bring small quantities of alcohol back from out-of-state trips,[8] and allowing in-state wineries to manufacture and sell directly to consumers.[9]

Limitation on the Size of Individual Wine Containers

Section 564.05, F.S., prohibits the sale of wine in individual containers holding more than 1 gallon of wine. However, distributors and manufacturers may sell wine to other distributors and manufacturers in containers of any size. Any person who violates the prohibition in s. 564.05, F.S., commits a second degree misdemeanor.[10]

Wine Kegs

Wine kegs are stainless steel barrels that contain the equivalent of 26 bottles, which is equal to approximately 5.2 gallons. They are filled with wine and an inert gas to prevent the spoilage of the wine. Wine kegs are also reusable.[11] Some states, including California, Georgia, Texas, and

---

[2] Section 561.02, F.S.

[3] Erik D. Price, *Time to Untie the House? Revisiting the Historical Justifications of Washington's Three-Tier System Challenged by Costco v. Washington State Liquor Control Board* (June 2004), *available at* http://www.lanepowell.com/wp-content /uploads/2009/04/pricee_001.pdf (Last visited March 12, 2013); *see* s. 561.14, F.S.

[4] *See* s. 561.14, F.S.

[5] Price, *supra* note 3.

[6] Section 561.14(3), F.S. Vendors may also buy from vendors in a pool buying group if the initial purchase was by a single purchase by a pool buying agent.

[7] *See* s. 561.221(2), F.S.

[8] *See* s. 562.16, F.S.

[9] *See* s. 561.221(1), F.S.

[10] Section 775.082, F.S., provides that the penalty for a misdemeanor of the second degree is a term of imprisonment not exceeding 60 days. Section 775.083, F.S., provides that the penalty for a misdemeanor of the second degree is a fine not to exceed $500.

[11] Worobiec, MaryAnn, "Tapped In: Wine in Kegs," *Wine Spectator* (Oct. 21, 2011), *available at* http://www.winespectator.com/webfeature/show/id/45801 (last visited on February 28, 2013). According to proponents of the bill, 36 states permit the sale of wine kegs.

New York, permit retail vendors to sell wine from wine kegs. In Florida, retail vendors may not sell wine from wine kegs because of the 1 gallon limit on the sale of wine in s. 564.05, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 564.05, F.S., to permit the sale of wine in reusable containers of 5.16 gallons. The bill also provides that wine sold for off-premises consumption must be in the original, unopened container, unless otherwise permitted by law (such as, when wine is purchased at a restaurant with a meal and the bottle of remaining wine is taken home).

Section 2 provides that the bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Wine kegs may be more economical for restaurants to use in the sale of wine-by-the-glass. When a bottle of wine is opened, the contents are exposed to oxygen and the process of oxidation begins, which may spoil the wine. A vendor may risk losing money when the vendor opens a bottle for sale by-the-glass and then is unable to sell all of the wine in the bottle. Additionally, the transportation costs for wine kegs may be cheaper because they weigh less than the equivalent bottles. Wine kegs are also reusable.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Commerce and Tourism Committee on March 18, 2013:
The committee substitute amends s. 564.05, F.S., to permit the sale of wine in reusable containers of 5.16 gallons. It also provides that wine sold for off-premises consumption must be in the original, unopened container, unless otherwise permitted by law.

CS by Regulated Industries Committee on March 7, 2013:
The committee substitute amends s. 564.05, F.S., to permit the sale of wine in reusable containers of 5.16 gallons. The CS does not amend this section to increase the size of individual containers of wine that may be sold from one gallon to six gallons.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committees on Commerce and Tourism; and Regulated Industries; and Senators Simpson, Ring, Brandes, Joyner, Hays, and Thompson

577-02588-13 2013658c2

A bill to be entitled

An act relating to wine; amending s. 564.05, F.S.; providing an exception to the maximum allowable capacity for individual containers of wine sold in this state; providing that, except as provided in s. 564.09, F.S., all wine containers sold or offered for sale at retail for consumption off the premises shall be in the original container; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 564.05, Florida Statutes, is amended to read:

564.05 Limitation of size of individual wine containers; penalty.—It is unlawful for any person to sell within this state any wine in individual containers holding more than 1 gallon of such wine unless such wine is in reusable containers holding 5.16 gallons. However, ~~Provided, that~~ qualified distributors and manufacturers may sell to other qualified distributors or manufacturers such wine in any size containers. Except as provided in s. 564.09, all wine sold or offered for sale by licensed vendors to be consumed off the premises shall be in the unopened original container. Any person convicted of a violation of this section commits ~~shall be guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. This act shall take effect July 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR WILTON SIMPSON
18th District

COMMITTEES:
Community Affairs, *Chair*
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Commerce and Tourism
Communications, Energy, and Public Utilities
Environmental Preservation and Conservation

JOINT COMMITTEE:
Joint Legislative Auditing Committee

RECEIVED
MAR 15 2013
SENATE
RULES COMMITTEE

March 15, 2013

Senator John Thrasher, Chairman
Senate Rules Committee
402 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Senator Thrasher,

Please place Senate Bill 658, relating to wine canisters, on the March 21, 2013, Rules Committee meeting agenda, *if received.*

Please contact my office with any questions.

Senator Wilton Simpson, 18th District

REPLY TO:
- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: *www.flsenate.gov*

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 832

INTRODUCER: Senator Joyner

SUBJECT: Powers of Attorney

DATE: March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shankle	Cibula	JU	**Favorable**
2.	McKay	McVaney	GO	**Favorable**
3.	Shankle	Phelps	RC	**Pre-meeting**
4.				
5.				
6.				

I. Summary:

SB 832 makes a number of changes to chapter 709, F.S., concerning powers of attorney, which were recommended by the Real Property, Probate, and Trust Law Section of The Florida Bar. These changes:

- Make provisions of chapter 709, F.S., which apply to financial institutions expressly applicable to broker-dealers.
- Specify three powers given by a principal to an agent in which the laws governing powers of attorney do not apply.
- Allow a notary public to sign the principal's name on a power of attorney document if the principal is physically unable to sign.
- Allow a third party to require an original power of attorney be provided for recording in official records if the power of attorney is relied on to transfer real property.
- Allow an agent with a power of attorney to delegate authority to a third person using a prescribed government form if the delegation is for a governmental purpose.
- Provide a standard for a court to award attorney fees in litigation involving a power of attorney.
- Allow a third party to require that an agent provide an affidavit stating whether the agent's authority has been terminated by the filing of an action for dissolution of marriage of the agent and principal.
- Clarify when a rejection of a power of attorney by a third party must be in writing.
- Clarify that the default cap in existing law on the amount of gifts that an agent may give under a power of attorney applies to gifts given in a single a calendar year.

This bill substantially amends the following sections of the Florida Statutes: 709.2102, 709.2103, 709.2105, 709.2106, 709.2114, 709.2116, 709.2119, 709.2120, 709.2121, 709.2202, and 709.2208.

II. Present Situation:

Powers of Attorney Generally

A power of attorney is a legal document in which the client (the principal) authorizes a person or entity (the agent or attorney-in-fact)[1] to act on his or her behalf. The authority granted depends on the specific language of the power of attorney. A person giving a power of attorney may provide very broad authority (a general power of attorney) or may limit the authority to certain specific acts (a limited power of attorney).

A power of attorney expires automatically upon the principal becoming mentally ill or otherwise incapacitated.[2] However, a durable power of attorney remains in effect if the principal subsequently becomes incapacitated, but expires immediately if the principal is adjudicated legally incapacitated.[3] Any power of attorney expires upon death of the principal or revocation by the principal.[4]

Uniform Power of Attorney Act

In 2006, the Uniform Law Commission of the National Conference of Commissioners on Uniform Laws promulgated the Uniform Power of Attorney Act (UPOAA). The catalyst for UPOAA was a national study which revealed a growing divergence in state power of attorney legislation. Since its completion thirteen states and one territory have adopted the UPOAA.[5] The goal of the UPOAA is to promote uniformity and portability of powers of attorney across state lines.

The Florida Power of Attorney Act (the "Act"), was enacted effective October 1, 2011, and substantially re-wrote ch. 709, F.S., to conform to the Uniform Power of Attorney Act, with modifications.[6]

---

[1] Chapter 709, F.S., uses the term "attorney-in-fact" to describe a person granted authority pursuant to a power of attorney. This bill uses the term "agent" to describe a person granted authority pursuant to a power of attorney.
[2] A general power of attorney is the default power of attorney in this state.
[3] *See* s. 709.2121, F.S.
[4] *Id.*
[5] *See* http://www.uniformlaws.org/Act.aspx?title=Power of Attorney for information regarding the UPOAA. Thirteen states are recognized as having adopted the Act and one state has proposed legislation to adopt the act this year. (Last visited March 9, 2013).
[6] Chapter 2011-210, L.O.F.

Broker-dealers

Certain provisions of chapter 709, F.S., apply specifically to financial institutions:

- A written notice relating to the validity of a power of attorney to a financial institution must include the name, address, and last four digits of the principal's taxpayer identification number and be delivered to an officer or director of the financial institution.[7]
- A power of attorney that includes the statement that the agent has "authority to conduct investment transactions as provided in section 709.2208(2), Florida Statutes" grants general authority for a financial institution to handle, buy, and sell investment instruments.[8]
- A financial institution has 4-day limit on what is considered a reasonable time for it to reject or accept a power of attorney provided by an agent.[9]

A broker-dealer is an entity that is registered with the United States Securities and Exchange Commission or the Commodity Futures Trading Commission.[10] These entities act similarly to financial institutions in the handling, buying, and selling of investment instruments, but chapter 709, F.S., does not specifically address whether the same provisions that apply to financial institutions also apply to broker-dealers.

Exceptions to when Powers of Attorney Apply

Section 709.2103, F.S., provides for four exceptions where chapter 709, F.S., does not apply to certain powers given by a principal to an agent that are encountered in common commercial contexts:

- A power created by an entity.
- A proxy or other delegation to exercise voting rights or management rights with respect to an entity.
- A power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose.
- A power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction.[11]

Execution Requirements

Under s. 709.2105, F.S., a power of attorney must be signed by the principal. The statutes do not accommodate a person who is unable to sign his or her name due to a physical disability, but who otherwise has the capacity to execute a power of attorney.[12]

---

[7] Section 709.2121(3), F.S.
[8] Section 709.2208(2), F.S.
[9] Section 709.2120(1)(b), F.S.
[10] U.S. Securities and Exchange Commission, *Guide to Broker-Dealer Registration*, http://www.sec.gov/divisions/marketreg/bdguide.htm (last visited Mar. 1, 2013).
[11] Section 709.2103, F.S.
[12] Real Property, Probate, and Trust Law Section of The Florida Bar, *White Paper Chapter 709 "Glitch" Bill* (2013) (on file with the Senate Committee on Judiciary).

Validity of Power of Attorney

Section 709.2106(5), F.S., allows a copy of a power of attorney to have the same effect as the original.[13] However, title insurance agents are concerned that an original copy of the power of attorney must be recorded in the public records when real estate transfers are completed via a power of attorney.[14] Section 709.2106, F.S., prevents title agents from requiring an original.

Delegation of Agent's Duties

A principal delegates authority to an agent to act for the principal by execution of the power of attorney. There are limited circumstances in which the agent is allowed to further delegate his or her authority to another person. Currently, an agent with a power of attorney is only allowed to delegate authority to act under the power of attorney to a third person for purposes of managing financial investments.[15]

Awarding Attorney Fees

Section 709.2116(3), F.S., allows a court to award attorney fees in proceedings involving disputes over a power of attorney. However, it does not provide guidance for a court to apply if making such an award.

Reliance on a Power of Attorney

Currently, before relying on a power of attorney, a third party may request that an agent provide an affidavit as to the validity of the power of attorney. The third party may require that the affidavit state, among other things, where the principal is domiciled, that the principal is not deceased, and that there has been no suspension of powers of attorney by the initiation of proceedings to determine incapacity.[16] However, whether the agent's authority has been terminated by the filing of an action for dissolution of marriage between the agent and principal is not among the items a third party may require in an affidavit from an agent.

Refusal to Accept a Power of Attorney

Section 709.2120, F.S., identifies certain situations in which a third party may reject a power of a power of attorney. It also requires that any such rejection must be in writing and state the reason for rejection of the power of attorney.[17] Based on the wording of s. 709.2120, F.S., the statute does not clearly indicate whether the requirement that the rejection be in writing apply to any of those situations.[18] This leads to a possible interpretation that a written rejection is not required if a valid reason for rejection exists.

---

[13] Section 709.2106(5), F.S.
[14] Real Property, Probate, and Trust Law Section of The Florida Bar, *supra* note 6.
[15] Sections 709.2114 F.S., and 518.112, F.S.
[16] Section 709.2119, F.S.
[17] *Id*.
[18] Real Property, Probate, and Trust Law Section of The Florida Bar, *supra* note 6.

Authority to Make Gifts

A power of attorney may grant an agent the authority to make a gift of the principal's property to another individual. Unless the power of attorney otherwise provides, the agent's ability to make a gift of the principal's property is limited by a default amount equal to the annual exclusion amount for federal gift tax purposes.[19]

III. Effect of Proposed Changes:

Definitions

Section 1 amends s. 709.2102, F.S., to define the term "broker-dealer." The bill also amends ss. 709.2120 (**Section 8)**, 709.2121 (**Section 9)**, and 709.2208 (**Section 11)**, F.S., to clarify that those sections apply to both financial institutions and broker-dealers.

The definition of "sign" is modified to clarify that the principal may use either a signature or a mark as evidence of execution.

A definition of "another state" has also been included as it relates to acceptance of powers of attorney executed in compliance with the laws of another state, territory, or insular possession of the United States.[20]

Exceptions to when Powers of Attorney Apply

Section 2 amends s. 709.2103, F.S., creating three additional powers of attorney that chapter 709, F.S., does not apply to:

- A power given to a transfer agent to facilitate a specific transfer of stocks, bonds, or other financial instrument.
- A power authorizing a financial institution or broker-dealer to act as agent for the account owner in executing transfers of cash, securities, commodities, or other financial assets.
- A delegation of powers by a trustee as regulated by chapter 736, F.S., the Florida Trust Code.

Execution Requirements

Sections 3 and 10 amends ss. 703.2105 and 709.2202, F.S., respectively, to allow a notary public to sign a principal's name on a power of attorney document if the principal is physically unable to sign as long as the requirements for a notary providing services under s. 117.05(14), F.S., are met. These requirements include:

- The person with a disability directs the notary to sign in his or her presence.
- The document signing is witnessed by two disinterested persons.

[19] Section 709.2202(3), F.S.
[20] "Insular" is defined as "of islands." http://www.merriam-webster.com/dictionary/insular (Last visited March 18, 2013). Currently, the insular possessions of the United States are the U.S. Virgin Islands, American Samoa, and Guam.

- The notary writes below the signature the following statement: "Signature affixed by notary, pursuant to s. 117.05(14), Florida Statutes," and states the circumstances of the signing in the notarial certificate.[21]

Validity of Power of Attorney

Section 4 amends s. 709.2106, F.S., to allow a third party to require that an original power of attorney be provided for recording in official records if the power of attorney is relied on to transfer real property. The bill specifies the process by which a power of attorney can be recorded by the clerk of courts.

Delegation of Agent's Duties

Section 5 amends s. 709.2114, F.S., to allow an agent with power of attorney to delegate authority to a third person using a prescribed government form if the delegation is for a governmental purpose. An example is the appointment of an agent for communication with the Internal Revenue Service using IRS Form 2848.[22]

Awarding Attorney Fees

Section 6 amends s. 709.2116(3), F.S., to provide a standard for awarding attorney fees as in a chancery action. This standard provides that "a court of equity may, as justice requires, order that costs follow the result of the suit, apportion the costs between the parties, or require all costs be paid by the prevailing party."[23] This standard gives a court full discretion in determining whether to make an award.

Reliance on a Power of Attorney

Section 7 amends s. 709.2119, F.S., to allow a third party, relying on a power of attorney, to require an affidavit from an agent stating whether the agent's authority has been terminated by the filing of an action for dissolution or annulment of marriage of the agent and principal.

The bill also corrects a cross-reference.

Refusal to Accept a Power of Attorney

Section 8 amends s. 709.2120, F.S., to clarify that written notice of rejection is not required when the third person would not otherwise be required to engage in a transaction with the principal in the same circumstances and that written notice is required in all other circumstances.

[21] Section 117.05(14), F.S.
[22] Real Property, Probate, and Trust Law Section of The Florida Bar, *supra* note 6.
[23] *Dayton v. Conger*, 448 So. 2d 609, 612 (Fla. 3d DCA 1984).

Authority to Make Gifts

Section 10 amends s. 709.2202, F.S., to clarify that the default cap amount of gifts is measured on a calendar year basis, the same as it is measured for federal gift tax purposes, which is $14,000 per donee in 2013.[24]

Effective Date

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[24] American Taxpayer Relief Act of 2012, Pub. Law No. 112-240, H.R. 8, 112th Cong. (Jan. 2, 2013).

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Joyner

19-00525A-13 2013832__

A bill to be entitled

An act relating to powers of attorney; amending s. 709.2102, F.S.; adding definitions; revising the definition of "sign"; amending s. 709.2103, F.S.; adding certain powers of attorney to which this part does not apply; amending s. 709.2105, F.S.; authorizing a notary public to sign the principal's name to the power of attorney under certain circumstances; amending s. 709.2106, F.S.; clarifying and revising language; providing that an original power of attorney, rather than a photocopy or electronic copy, may be required under certain circumstances; providing that an original power of attorney may be presented for recording in the official records for a fee; amending s. 709.2114, F.S.; adding exceptions to a provision that prohibits an agent who has accepted appointment from delegating authority to a third person; amending s. 709.2116, F.S.; providing for attorney fees and costs as in chancery actions; amending s. 709.2119, F.S.; authorizing a third person to require an agent to execute an affidavit stating that the agent's authority was not terminated because of certain circumstances; revising a sample form of an affidavit; revising a cross-reference; amending s. 709.2120, F.S.; revising language; providing a presumption of reasonable time to accept or reject a power of attorney for a broker-dealer; requiring a third person who rejects a power of attorney to state the reason in

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

19-00525A-13 2013832__

writing unless a certain circumstance applies; amending s. 709.2121, F.S.; providing for notice to a broker-dealer; amending s. 709.2202, F.S.; conforming a cross-reference; authorizing a notary public to sign the principal's name to documents, other than the power of attorney, under certain circumstances; clarifying that certain gift amounts are based on the calendar year; specifying that a broker-dealer does not have a duty to inquire into certain actions by an agent and is not liable for relying in good faith on an agent's actions; amending s. 709.2208, F.S.; providing that an agent acquires general authority regarding securities held by a broker-dealer under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (2) through (12) of section 709.2102, Florida Statutes, are redesignated as subsections (3) through (13), respectively, present subsection (13) of that section is redesignated as subsection (15), a new subsection (2) and a new subsection (14) are added to that section, and present subsection (12) of that section is amended to read:

709.2102 Definitions.—As used in this part, the term:

(2) "Broker-dealer" means a broker-dealer registered with the United States Securities and Exchange Commission or the Commodity Futures Trading Commission if the broker-dealer is acting in that capacity.

(13) ~~(12)~~ "Sign" means having present intent to authenticate

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 or adopt a record to:
60 (a) Execute by signature or mark ~~adopt a tangible symbol~~;
61 or
62 (b) Attach to, or logically associate with the record an
63 electronic sound, symbol, or process.
64 (14) "Another state" means a state of the United States,
65 the District of Columbia, Puerto Rico, the United States Virgin
66 Islands, or any territory or insular possession subject to the
67 jurisdiction of the United States.
68 Section 2. Section 709.2103, Florida Statutes, is amended
69 to read:
70 709.2103 Applicability.—This part applies to all powers of
71 attorney except:
72 (1) A proxy or other delegation to exercise voting rights
73 or management rights with respect to an entity;
74 (2) A power created on a form prescribed by a government or
75 governmental subdivision, agency, or instrumentality for a
76 governmental purpose;
77 (3) A power to the extent it is coupled with an interest in
78 the subject of the power, including a power given to or for the
79 benefit of a creditor in connection with a credit transaction;
80 ~~and~~
81 (4) A power created by a person other than an individual;
82 (5) A power given to a transfer agent to facilitate a
83 specific transfer or disposition of one or more identified
84 stocks, bonds, or other financial instruments;
85 (6) A power authorizing a financial institution or broker-
86 dealer, or an employee of the financial institution or broker-
87 dealer, to act as agent for the account owner in executing

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

88 trades or transfers of cash, securities, commodities, or other
89 financial assets in the regular course of business; and
90 (7) A delegation of powers by a trustee in accordance with
91 s. 736.0807.
92 Section 3. Subsection (3) is added to section 709.2105,
93 Florida Statutes, to read:
94 709.2105 Qualifications of agent; execution of power of
95 attorney.—
96 (3) If the principal is physically unable to sign the power
97 of attorney, the notary public before whom the principal's oath
98 or acknowledgment is made may sign the principal's name on the
99 power of attorney pursuant to s. 117.05(14).
100 Section 4. Subsections (3) and (5) of section 709.2106,
101 Florida Statutes, are amended, and subsection (6) is added to
102 that section, to read:
103 709.2106 Validity of power of attorney.—
104 (3) A power of attorney executed in another state which
105 does not comply with the execution requirements of this part is
106 valid in this state if, when the power of attorney was executed,
107 the power of attorney and its execution complied with the law of
108 the state of execution. A third person who is requested to
109 accept a power of attorney that is valid in this state solely
110 because of this subsection may in good faith request, and rely
111 upon, without further investigation, an opinion of counsel as to
112 any matter of law concerning the power of attorney, including
113 the due execution and validity of the power of attorney. An
114 opinion of counsel requested under this subsection must be
115 provided at the principal's expense. A third person may reject
116 ~~accept~~ a power of attorney that is valid in this state solely

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

because of this subsection if the agent does not provide the requested opinion of counsel, and in such case, a third person has no liability for rejecting ~~refusing to accept~~ the power of attorney. This subsection does not affect any other rights of a third person who is requested to accept the power of attorney under this part, or any other provisions of applicable law.

(5) Except as otherwise provided in the power of attorney, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original. Notwithstanding the provisions of this subsection, an original power of attorney that is relied upon to affect the title to real property may be required for recording in the official records.

(6) An original of a properly executed power of attorney may be presented to the clerk of the circuit court for recording in the official records, as provided under s. 28.222, upon payment of a service charge, as provided under s. 28.24.

Section 5. Subsection (1) of section 709.2114, Florida Statutes, is amended to read:

709.2114 Agent's duties.—

(1) An agent is a fiduciary. Notwithstanding the provisions in the power of attorney, an agent who has accepted appointment:

(a) Must act only within the scope of authority granted in the power of attorney. In exercising that authority, the agent:

1. May not act contrary to the principal's reasonable expectations actually known by the agent;

2. Must act in good faith;

3. May not act in a manner that is contrary to the principal's best interest, except as provided in paragraph

(2)(d) and s. 709.2202; and

4. Must attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interest based on all relevant factors, including:

a. The value and nature of the principal's property;

b. The principal's foreseeable obligations and need for maintenance;

c. Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;

d. Eligibility for a benefit, a program, or assistance under a statute or rule; and

e. The principal's personal history of making or joining in making gifts;

(b) May not delegate authority to a third person except as authorized under ~~provided in~~ s. 518.112 or this part, or by executing a power of attorney on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose;

(c) Must keep a record of all receipts, disbursements, and transactions made on behalf of the principal; and

(d) Must create and maintain an accurate inventory each time the agent accesses the principal's safe-deposit box, if the power of attorney authorizes the agent to access the box.

Section 6. Subsection (3) of section 709.2116, Florida Statutes, is amended to read:

709.2116 Judicial relief; conflicts of interests.—

(3) In any proceeding commenced by filing a petition under this section, including, but not limited to, the unreasonable

175 refusal of a third person to allow an agent to act pursuant to
176 the power of attorney, and in challenges to the proper exercise
177 of authority by the agent, the court shall award reasonable
178 attorney ~~attorney's~~ fees and costs as in chancery actions.
179 Section 7. Subsections (2) and (3) of section 709.2119,
180 Florida Statutes, are amended to read:
181 709.2119 Acceptance of and reliance upon power of
182 attorney.—
183 (2) A third person may require:
184 (a) An agent to execute an affidavit stating where the
185 principal is domiciled; that the principal is not deceased; that
186 there has been no revocation, or partial or complete termination
187 by adjudication of incapacity or by the occurrence of an event
188 referenced in the power of attorney; that there has been no
189 suspension by initiation of proceedings to determine incapacity,
190 or to appoint a guardian, of the principal; that the agent's
191 authority has not been terminated by the filing of an action for
192 dissolution or annulment of marriage, or legal separation of the
193 agent and principal; and, if the affiant is a successor agent,
194 the reasons for the unavailability of the predecessor agents, if
195 any, at the time the authority is exercised.
196 (b) An officer of a financial institution acting as agent
197 to execute a separate affidavit, or include in the form of the
198 affidavit, the officer's title and a statement that the officer
199 has full authority to perform all acts and enter into all
200 transactions authorized by the power of attorney for and on
201 behalf of the financial institution in its capacity as agent.
202 (c) A written affidavit executed by the agent under this
203 subsection may, but need not, be in the following form:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

204
205 STATE OF.....
206 COUNTY OF.....
207
208 Before me, the undersigned authority, personally appeared
209 ...(agent)~~(attorney in fact)~~... ("Affiant"), who swore or
210 affirmed that:
211 1. Affiant is the agent ~~attorney in fact~~ named in the
212 ~~Durable~~ Power of Attorney executed by ...(principal)...
213 ("Principal") on ...(date)....
214 2. This Power of Attorney is currently exercisable by
215 Affiant. The principal is domiciled in ...(insert name of state,
216 territory, or foreign country)....
217 3. To the best of Affiant's knowledge after diligent search
218 and inquiry:
219 a. The Principal is not deceased;
220 b. Affiant's authority has not been suspended by initiation
221 of proceedings to determine incapacity or to appoint a guardian
222 or a guardian advocate;
223 c. Affiant's authority has not been terminated by the
224 filing of an action for dissolution or annulment of Affiant's
225 marriage to the principal, or their legal separation; and
226 d.~~c.~~ There has been no revocation, or partial or complete
227 termination, of the power of attorney or of Affiant's authority.
228 4. Affiant is acting within the scope of authority granted
229 in the power of attorney.
230 5. Affiant is the successor to ...(insert name of
231 predecessor agent)..., who has resigned, died, become
232 incapacitated, is no longer qualified to serve, has declined to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

serve as agent, or is otherwise unable to act, if applicable.

6. Affiant agrees not to exercise any powers granted by the ~~Durable~~ Power of Attorney if Affiant attains knowledge that the power of attorney ~~it~~ has been revoked, has been partially or completely terminated or suspended, or is no longer valid because of the death or adjudication of incapacity of the Principal.

.....

...(Affiant)...

Sworn to (or affirmed) and subscribed before me this .... day of ...(month)..., ...(year)..., by ...(name of person making statement)...

...(Signature of Notary Public-State of Florida)...

...(Print, Type, or Stamp Commissioned Name of Notary Public)...

Personally Known OR Produced Identification
...(Type of Identification Produced)...

(3) A third person who is asked to accept a power of attorney that appears to be executed in accordance with s. 709.2105 ~~s. 709.2103~~ may in good faith request, and rely upon, without further investigation:

(a) A certified ~~verified~~ English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English;

(b) An opinion of counsel as to any matter of law concerning the power of attorney if the third person making the request provides in a writing or other record the reason for the request; or

(c) The affidavit described in subsection (2).

Section 8. Section 709.2120, Florida Statutes, is amended to read:

709.2120 Rejecting a ~~Refusal to accept~~ power of attorney.—

(1) ~~Except as provided in subsection (2):~~

~~(a)~~ A third person must accept or reject a power of attorney within a reasonable time. ~~A third person who rejects a power of attorney must state in writing the reason for the rejection.~~

~~(b)~~ Four days, excluding Saturdays, Sundays, and legal holidays, are presumed to be a reasonable time for a financial institution or broker-dealer to accept or reject a power of attorney with respect to:

(a)~~1.~~ A banking transaction, if the power of attorney expressly contains authority to conduct banking transactions pursuant to s. 709.2208(1); or

(b)~~2.~~ An investment ~~A security~~ transaction, if the power of attorney expressly contains authority to conduct investment ~~security~~ transactions pursuant to s. 709.2208(2).

(2)~~(c)~~ A third person may not require an additional or different form of power of attorney for authority granted in the power of attorney presented.

(3) A third person who rejects a power of attorney for any reason other than as provided in paragraph (4)(a) must state in writing the reason for the rejection.

291 (4) ~~(2)~~ A third person is not required to accept a power of
292 attorney if:
293 (a) The third person is not otherwise required to engage in
294 a transaction with the principal in the same circumstances;
295 (b) The third person has knowledge of the termination or
296 suspension of the agent's authority or of the power of attorney
297 before exercising the power;
298 (c) A timely request by the third person for an affidavit,
299 English translation, or opinion of counsel under s. 709.2119(4)
300 is refused by the agent;
301 (d) Except as provided in paragraph (b), the third person
302 believes in good faith that the power is not valid or that the
303 agent does not have authority to perform the act requested; or
304 (e) The third person makes, or has knowledge that another
305 person has made, a report to the local adult protective services
306 office stating a good faith belief that the principal may be
307 subject to physical or financial abuse, neglect, exploitation,
308 or abandonment by the agent or a person acting for or with the
309 agent.
310 (5) ~~(3)~~ A third person who, in violation of this section,
311 rejects ~~refuses to accept~~ a power of attorney is subject to:
312 (a) A court order mandating acceptance of the power of
313 attorney; and
314 (b) Liability for damages, including reasonable attorney's
315 fees and costs, incurred in any action or proceeding that
316 confirms, for the purpose tendered, the validity of the power of
317 attorney or mandates acceptance of the power of attorney.
318 Section 9. Subsection (3) of section 709.2121, Florida
319 Statutes, is amended to read:

320 709.2121 Notice.—
321 (3) Notice to a financial institution or broker-dealer must
322 contain the name, address, and the last four digits of the
323 principal's taxpayer identification number and be directed to an
324 officer or a manager of the financial institution or broker-
325 dealer in this state.
326 Section 10. Present subsections (2) through (5) of section
327 709.2202, Florida Statutes, are redesignated as subsections (3)
328 through (6), respectively, a new subsection (2) is added to that
329 section, and present subsections (1), (3), and (4) of that
330 section are amended to read:
331 709.2202 Authority that requires separate signed
332 enumeration.—
333 (1) Notwithstanding s. 709.2201, an agent may exercise the
334 following authority only if the principal signed or initialed
335 next to each specific enumeration of the authority, the exercise
336 of the authority is consistent with the agent's duties under s.
337 709.2114, and the exercise is not otherwise prohibited by
338 another agreement or instrument:
339 (a) Create an inter vivos trust;
340 (b) With respect to a trust created by or on behalf of the
341 principal, amend, modify, revoke, or terminate the trust, but
342 only if the trust instrument explicitly provides for amendment,
343 modification, revocation, or termination by the settlor's agent;
344 (c) Make a gift, subject to subsection (4) ~~(3)~~;
345 (d) Create or change rights of survivorship;
346 (e) Create or change a beneficiary designation;
347 (f) Waive the principal's right to be a beneficiary of a
348 joint and survivor annuity, including a survivor benefit under a

349 retirement plan; or
350 (g) Disclaim property and powers of appointment.
351 (2) In addition to signing the power of attorney on behalf
352 of the principal pursuant to s. 709.2105(3), if the principal is
353 physically unable to sign or initial next to any enumerated
354 authority for which subsection (1) requires the principal to
355 sign or initial, the notary public before whom the principal's
356 oath or acknowledgment is made may sign the principal's name or
357 initials if:
358 (a) The principal directs the notary to sign the
359 principal's name or initials on the power of attorney next to
360 any enumerated authority for which subsection (1) requires the
361 principal to sign or initial;
362 (b) The signing or initialing by the notary is done in the
363 presence of the principal and witnessed by two disinterested
364 subscribing witnesses; and
365 (c) The notary writes the statement "Signature or initials
366 affixed by notary, pursuant to s. 709.2202(2), Florida Statutes"
367 below each signature or initial that the notary writes on behalf
368 of the principal. Only one notarial certificate, in
369 substantially the same form as provided in s. 117.05(14), which
370 states the circumstances of all signatures and initials written
371 by the notary public, is required to be completed by the notary
372 public.
373 (4) ~~(3)~~ Unless the power of attorney otherwise provides, a
374 provision in a power of attorney granting general authority with
375 respect to gifts authorizes the agent to only:
376 (a) Make outright to, or for the benefit of, a person a
377 gift of any of the principal's property, including by the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

378 exercise of a presently exercisable general power of appointment
379 held by the principal, in an amount per donee per calendar year,
380 not to exceed the annual dollar limits of the federal gift tax
381 exclusion under 26 U.S.C. s. 2503(b), as amended, without regard
382 to whether the federal gift tax exclusion applies to the gift,
383 or if the principal's spouse agrees to consent to a split gift
384 pursuant to 26 U.S.C. s. 2513, as amended, in an amount per
385 donee per calendar year, not to exceed twice the annual federal
386 gift tax exclusion limit; and
387 (b) Consent, pursuant to 26 U.S.C. s. 2513, as amended, to
388 the splitting of a gift made by the principal's spouse in an
389 amount per donee per calendar year, not to exceed the aggregate
390 annual gift tax exclusions for both spouses.
391 (5) ~~(4)~~ Notwithstanding subsection (1), if a power of
392 attorney is otherwise sufficient to grant an agent authority to
393 conduct banking transactions, as provided in s. 709.2208(1),
394 conduct investment transactions as provided in s. 709.2208(2),
395 or otherwise make additions to or withdrawals from an account of
396 the principal, making a deposit to or withdrawal from an
397 insurance policy, retirement account, individual retirement
398 account, benefit plan, bank account, or any other account held
399 jointly or otherwise held in survivorship or payable on death,
400 is not considered to be a change to the survivorship feature or
401 beneficiary designation, and no further specific authority is
402 required for the agent to exercise such authority. A ~~bank or~~
403 ~~other~~ financial institution or broker-dealer does not have a
404 duty to inquire as to the appropriateness of the agent's
405 exercise of that authority and is not liable to the principal or
406 any other person for actions taken in good faith reliance on the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

407 appropriateness of the agent's actions. This subsection does not
408 eliminate the agent's fiduciary duties to the principal with
409 respect to any exercise of the power of attorney.
410 Section 11. Subsection (2) of section 709.2208, Florida
411 Statutes, is amended to read:
412 709.2208 Banks and other financial institutions.—
413 (2) A power of attorney that specifically includes the
414 statement that the agent has "authority to conduct investment
415 transactions as provided in section 709.2208(2), Florida
416 Statutes" grants general authority to the agent with respect to
417 securities held by financial institutions <u>or broker-dealers</u> to
418 take the following actions without additional specific
419 enumeration in the power of attorney:
420 (a) Buy, sell, and exchange investment instruments.
421 (b) Establish, continue, modify, or terminate an account
422 with respect to investment instruments.
423 (c) Pledge investment instruments as security to borrow,
424 pay, renew, or extend the time of payment of a debt of the
425 principal.
426 (d) Receive certificates and other evidences of ownership
427 with respect to investment instruments.
428 (e) Exercise voting rights with respect to investment
429 instruments in person or by proxy, enter into voting trusts, and
430 consent to limitations on the right to vote.
431 (f) Sell commodity futures contracts and call and put
432 options on stocks and stock indexes.
433
434 For purposes of this subsection, the term "investment
435 instruments" means stocks, bonds, mutual funds, and all other

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

436 types of securities and financial instruments, whether held
437 directly, indirectly, or in any other manner, including shares
438 or interests in a private investment fund, including, but not
439 limited to, a private investment fund organized as a limited
440 partnership, a limited liability company, a statutory or common
441 law business trust, a statutory trust, or a real estate
442 investment trust, joint venture, or any other general or limited
443 partnership; derivatives or other interests of any nature in
444 securities such as options, options on futures, and variable
445 forward contracts; mutual funds; common trust funds; money
446 market funds; hedge funds; private equity or venture capital
447 funds; insurance contracts; and other entities or vehicles
448 investing in securities or interests in securities whether
449 registered or otherwise, except commodity futures contracts and
450 call and put options on stocks and stock indexes.
451 Section 12. This act shall take effect upon becoming a law.

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ARTHENIA L. JOYNER
19th District

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice, *Vice Chair*
Appropriations
Appropriations Subcommittee on General Government
Ethics and Elections
Health Policy
Judiciary
Transportation

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

March 21, 2013

RECEIVED
MAR 21 2013
SENATE
RULES COMMITTEE

Senator John Thrasher, Chair
Senate Committee on Rules
402 Senate
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Thrasher:

This is to request that Senate Bill 832, Powers of Attorney, be placed on the agenda for the Committee on Rules. Your consideration of this request is greatly appreciated.

Sincerely,

Arthenia L. Joyner
State Senator, District 19

REPLY TO:
☐ 508 W. Dr. Martin Luther King, Jr. Blvd., Suite C, Tampa, Florida 33603-3415 (813) 233-4277
☐ 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5019 FAX: (813) 233-4280

Senate's Website: *www.flsenate.gov*

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 1106

INTRODUCER: Rules Committee; Agriculture Committee; and Senator Hays

SUBJECT: Agritourism

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Halley	AG	**Fav/CS**
2.	Anderson	Yeatman	CA	**Favorable**
3.	Akhavein	Phelps	RC	**Fav/CS**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/CS/SB 1106 states that it is the intent of the Legislature to eliminate duplication of regulatory authority over agritourism. It prohibits a local government to adopt ordinances, regulations, rules, or policies that prohibit, restrict, regulate or otherwise limit an agritourism activity on land that has been classified as agricultural by a property appraiser. The bill clarifies the definition of "agritourism activity," changes the term "agritourism professional" to "agritourism operator," and creates a new definition for "inherent risks of an agritourism activity." It establishes a limitation on liability from inherit risks for the land owner, agritourism operator, and employees if a notice of risk is posted on the land, with exceptions. The bill provides the specific warning language that must be posted in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. Each agritourism contract with the participant must also include the warning language in clearly readable print. Finally, the bill denies use of the limited liability defense if the owner, agritourism operator, or employee fails to post the sign as required by this act or fails to place it in the contract.

This bill amends sections 570.96 and 570.961 of the Florida Statutes. This bill creates sections 570.963 and 570.964 of the Florida Statutes.

II. Present Situation:

Agritourism is the practice of attracting visitors and travelers to agricultural areas, generally for educational and recreational purposes. For many farmers, the only way to continue farming is to find ways to diversify and expand their incomes, either through new enterprises on the farm or off-farm employment. One diversification strategy some U.S. farmers are beginning to explore is the "cultivation" of tourists in addition to growing crops. Referred to as "agriturismo" in Italy, "sleeping in the straw" in Switzerland, "farmstays" in New Zealand, and "farm holidays" in England, agritourism is well established throughout Europe and in many other countries.[1]

Agritourism has an extensive history in the United States. Farm-related recreation and tourism can be traced back to the late 1800s, when families visited farming relatives in an attempt to escape from the city's summer heat. Visiting the country became even more popular with the widespread use of the automobile in the 1920s. Rural recreation gained interest again in the 1930s and 1940s by people seeking an escape from the stresses of the Great Depression and World War II. These demands for rural recreation led to widespread interest in horseback riding, farm petting zoos, and farm nostalgia during the 1960s and 1970s. Farm vacations, bed and breakfasts, and commercial farm tours were popularized in the 1980s and 1990s.[2]

Agritourism allows people who have little knowledge of agricultural lands to experience intrinsic agricultural practices and the culture of those lands. Agritourism can help people reconnect with agricultural practices that have changed with the rise of heavily-industrialized farming methods and can build relationships between the producer and consumer. This type of tourism could include farm tours or farm stays, fishing, hunting, festivals, historical recreations, workshops/educational activities, wildlife study, horseback riding, cannery tours, cooking classes, wine tastings, barn dances, and harvest-your-own activities. The use of these resources can have a positive effect on both the agricultural enterprise and the surrounding community. Not only does this tourism have the potential to add value to the operations themselves, but it also creates an awareness in people about the importance of agriculture.[3]

Under Florida's Greenbelt Law, properties that are *bona fide* agricultural operations are taxed according to the "use" value of those operations, rather than the development value. The property appraiser of each county in Florida must classify every piece of land in their county as agricultural or non-agricultural in order to get the *bona fide* status. This is known as the land's "Greenbelt" assessment.[4] To make this determination, the appraiser must consider factors such as the length of time the land has been used for its current purpose, whether that use has been continuous, the price paid for the land, the size of the land in relation to its specific agricultural use, the effort made to care sufficiently and adequately for the land, whether the land is leased, and if so, the terms of the lease, and finally, any other factors that may become applicable. When a piece of land is classified as agricultural/Greenbelt, it is given a property value based upon its agricultural use rather than the market value of the land. Such a classification provides the property with a lower property tax assessment. The type of agricultural use also impacts the

[1] Curtis E. Beus, "Agritourism: Cultivating Tourists on the Farm," (July 2008): 5.
[2] Considering an Agritainment Enterprise in Tennessee? (Agricultural Extension Service, The University of Tennessee, PB 1648)
[3] Analysis of SB 2754, (2007)
[4] Section 193.461, F.S.

assessment within the Greenbelt classification. This means that land used to grow pine trees may receive a different value than land used to produce fruit, so different types of agriculture receive different property value levels.

The 2007 Legislature passed House Bill 1427 which authorized the Department of Agriculture and Consumer Services to assist agritourism operators with marketing and permitted the conducting of agritourism activity on a *bona fide* farm or on agricultural lands classified as such pursuant to s. 193.461, F.S. It also specified that the practice of agritourism shall not limit, restrict, or divest the land of that classification.[5]

Several states have enacted laws that support farmers involved in agritourism. For instance, Louisiana passed a law in 2008 that affords limited liability protection to agritourism operators. Oklahoma currently has a bill before the Legislature cited as the "Oklahoma Agritourism Activities Liability Limitations Act." Agritourism operators in Florida do not have a statutory defense for injuries occurring from inherent risks. These risks involve dangers associated with natural conditions of premises, natural responses of animals, and ordinary dangers of structures and equipment.

The 2011 General Assembly in North Carolina passed legislation allowing "*Bona Fide* Farm Operators to be exempt for zoning regulations by city governments. County government were already unable to zone *Bona Fide* Farm Operators. At this time, Florida law only promotes the use of land for agritourism activities. It does not provide for a preemption of local governments, an affirmative defense for agritourism activities, or a specific limitation on liability for agritourism activities.

III. Effect of Proposed Changes:

Section 1 amends s. 570.96, F.S., to provide that it is the Legislature's intent to eliminate duplication of regulatory authority over agritourism. It prohibits a local government to adopt ordinances, regulations, rules, or policies that prohibit, restrict, regulate or otherwise limit an agritourism activity on land that has been classified as agricultural by a property appraiser. However, it does not prohibit a local government to address an emergency.

Section 2 amends s. 570.961, F.S., to clarify the definition of "agritourism activity," change "agritourism professional" to "agritourism operator," and to create a new definition for "inherent risks of an agritourism activity."

Section 3 creates s. 570.963, F.S., to establish limitation on liability for the land owner, agritourism operator and their employee if a notice of risk is posted on the land. With certain exceptions, a person may not maintain an action against or recover from a land owner, agritourism operator or their employee for the injury or death of, or damage or loss to, an agritourism participant resulting exclusively from any of the inherent risks of agritourism activities.

[5] Section 570.962, F.S.

The criteria above does not prevent or limit the liability of a land owner, agritourism operator or their employee if he or she:

- Commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant; or
- Intentionally injuries the participant.

Section 4 creates s. 570.964, F.S., to provide the specific warning language that must be posted in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. Each agritourism contract with the participant must also include the warning language in clearly readable print. The bill denies use of the limited liability defense if the owner, agritourism operator, or employee fails to post the sign as required by this act or fails to place it in the contract.

Section 5 provides that this act shall take effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/CS/SB 1106 should encourage the creation of new agritourism businesses and create a caveat emptor situation for the participant at an agritourism activity.

C. Government Sector Impact:

Local government impact by the provisions of the bill is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Rules on April 2, 2013:
The committee adopted two amendments and incorporated them into the original bill as a committee substitute. The amendments:

- Revise the definition of the term "agritourism activity;"
- Change the term "agritourism professional" to "agritourism operator;"
- Delete a requirement for a pleading of the affirmative defense of assumption of risk by the owner, agritourism operator, or employee in any action for damages; and
- Specify that liability is not prevented or limited if a land owner, agritourism operator or their employee commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes injury, damage, or death to the participant.

CS by Agriculture on March 11, 2013:
It emphasizes that immunity does not apply when the land owner, the agritourism professional, or an employee:

- negligently injures the participant;
- knows of a dangerous condition that causes injury because the participant was not alerted; or
- intentionally injures the participant.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

624918

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Rules (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete lines 50 - 162
and insert:

(1) "Agritourism activity" means any agricultural related activity consistent with a bona fide ~~carried out on a~~ farm, ~~or~~ ranch, or equine operation or in a working forest which ~~that~~ allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy ~~rural~~ activities, including farming, ranching, historical, cultural, or harvest-your-own~~, or nature-based~~ activities and attractions. An agritourism activity does not include the construction of new or additional structures or facilities intended primarily to

624918

14 house, shelter, transport, or otherwise accommodate members of
15 the general public. An activity is an agritourism activity
16 whether or not the participant paid to participate in the
17 activity.
18 (2) "Agritourism operator ~~professional~~" means any person
19 who is engaged in the business of providing one or more
20 agritourism activities, whether or not for compensation.
21 (3) "Farm" means the land, buildings, support facilities,
22 machinery, and other appurtenances used in the production of
23 farm or aquaculture products, including land used to display
24 plants, animals, farm products, or farm equipment to the public.
25 (4) "Farm operation" has the same meaning as defined in s.
26 823.14.
27 (5) "Inherent risks of agritourism activity" means those
28 dangers or conditions that are an integral part of an
29 agritourism activity including certain hazards, such as surface
30 and subsurface conditions, natural conditions of land,
31 vegetation, and waters; the behavior of wild or domestic
32 animals; and the ordinary dangers of structures or equipment
33 ordinarily used in farming and ranching operations. The term
34 also includes the potential of a participant to act in a
35 negligent manner that may contribute to the injury of the
36 participant or others, including failing to follow the
37 instructions given by the agritourism operator or failing to
38 exercise reasonable caution while engaging in the agritourism
39 activity.
40 Section 3. Section 570.963, Florida Statutes, is created to
41 read:
42 570.963 Liability.—

624918

43 (1) Except as provided in subsection (2), an agritourism
44 operator, his or her employer or employee, or the owner of the
45 underlying land on which the agritourism occurs are not liable
46 for injury or death of, or damage or loss to, a participant
47 resulting from the inherent risks of agritourism activities if
48 the notice of risk required under s. 570.964 is posted as
49 required. Except as provided in subsection (2), a participant,
50 or a participant's representative, may not maintain an action
51 against or recover from an agritourism operator, his or her
52 employer or employee, or the owner of the underlying land on
53 which the agritourism occurs for the injury or death of, or
54 damage or loss to, an agritourism participant resulting
55 exclusively from any of the inherent risks of agritourism
56 activities.
57 (2) In the event of the injury or death of, or damage or
58 loss to, an agritourism participant, subsection (1) does not
59 prevent or limit the liability of an agritourism operator or his
60 or her employer or employee or the owner of the underlying land
61 on which the agritourism occurs if he or she:
62 (a) Commits an act or omission that constitutes gross
63 negligence or willful or wanton disregard for the safety of the
64 participant, and that act or omission proximately causes injury,
65 damage, or death to the participant; or
66 (b) Intentionally injures the participant.
67 (3) The limitation on legal liability afforded by this
68 section to an agritourism operator or his or her employer or
69 employee or the owner of the underlying land on which the
70 agritourism occurs is in addition to any limitations of legal
71 liability otherwise provided by law.

624918

72 Section 4. Section 570.964, Florida Statutes, is created to
73 read:
74 570.964 Posting and notification.—
75 (1)(a) Each agritourism operator shall post and maintain
76 signs that contain the notice of inherent risk specified in
77 subsection (2). A sign shall be placed in a clearly visible
78 location at the entrance to the agritourism location and at the
79 site of the agritourism activity. The notice of inherent risk
80 must consist of a sign in black letters, with each letter a
81 minimum of 1 inch in height, with sufficient color contrast to
82 be clearly visible.
83 (b) Each written contract entered into by an agritourism
84 operator for the provision of professional services,
85 instruction, or the rental of equipment to a participant,
86 regardless of whether the contract involves agritourism
87 activities on or off the location or at the site of the
88 agritourism activity, must contain in clearly readable print the
89 notice of inherent risk specified in subsection (2).
90 (2) The sign and contract required under subsection (1)
91 must contain the following notice of inherent risk:
92
93 WARNING
94
95 Under Florida law, an agritourism operator is not
96 liable for injury or death of, or damage or loss to, a
97 participant in an agritourism activity conducted at
98 this agritourism location if such injury, death,
99 damage, or loss results from the inherent risks of the
100 agritourism activity. Inherent risks of agritourism

624918

101 activities include, among others, risks of injury
102 inherent to land, equipment, and animals, as well as
103 the potential for you to act in a negligent manner
104 that may contribute to your injury, death, damage, or
105 loss. You are assuming the risk of participating in
106 this agritourism activity.
107
108 (3) Failure to comply with the requirements of this
109 subsection prevents an agritourism operator, his or her
110
111 ========== T I T L E A M E N D M E N T ==========
112 And the title is amended as follows:
113 Delete lines 7 - 16
114 and insert:
115 activity," changing the term "agritourism
116 professional" to "agritourism operator," and adding a
117 definition of the term "inherent risks of agritourism
118 activity"; creating s. 570.963, F.S.; limiting the
119 liability of an agritourism operator, his or her
120 employer or employee, or the owner of the underlying
121 land on which the agritourism activity occurs if
122 certain conditions are met; creating s. 570.964, F.S.;
123 requiring that signs and contracts notify participants
124 of certain inherent risks and the assumption of that
125 risk; preventing an agritourism operator, his or her

973988

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Rules (Richter) recommended the following:

1 **Senate Amendment to Amendment (624918)**
2
3 Delete line 7
4 and insert:
5 ranch or in a <u>working</u> forest <u>which</u> ~~that~~

By the Committee on Agriculture; and Senator Hays

575-02199-13 20131106c1

A bill to be entitled

An act relating to agritourism; amending s. 570.96, F.S.; providing legislative intent; restricting a local government's ability to regulate agritourism activity on agricultural land; amending s. 570.961, F.S.; revising the definition of the term "agritourism activity" and adding a definition of the term "inherent risks of agritourism activity"; creating s. 570.963, F.S.; limiting the liability of an agritourism professional, his or her employer or employee, or the owner of the underlying land on which the agritourism activity occurs if certain conditions are met; creating s. 570.964, F.S.; requiring that signs and contracts notify participants of certain inherent risks and the assumption of that risk; preventing an agritourism professional, his or her employer, and any employee, and the owner of the underlying land from invoking the privileges of immunity if certain conditions are not met; providing criteria for the notice; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 570.96, Florida Statutes, is amended to read:

570.96 Agritourism.—

(1) It is the intent of the Legislature to eliminate duplication of regulatory authority over agritourism as expressed in this section. Except as otherwise provided for in

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

575-02199-13 20131106c1

this section, and notwithstanding any other provision of law, a local government may not adopt an ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land under s. 193.461. This subsection does not limit the powers and duties of a local government to address an emergency as provided in chapter 252.

(2) The Department of Agriculture and Consumer Services may provide marketing advice, technical expertise, promotional support, and product development related to agritourism to assist the following in their agritourism initiatives: Enterprise Florida, Inc.; convention and visitor bureaus; tourist development councils; economic development organizations; and local governments. In carrying out this responsibility, the department shall focus its agritourism efforts on rural and urban communities.

Section 2. Section 570.961, Florida Statutes, is amended to read:

570.961 Definitions.—As used in ss. 570.96-570.964 ~~570.96-570.962~~, the term:

(1) "Agritourism activity" means any activity consistent with a bona fide ~~carried out on a~~ farm or ranch or in a working forest that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy agricultural-related ~~rural~~ activities, including, but not limited to, farming, ranching, historical, cultural, or harvest-your-own~~, or nature based~~ activities and attractions. An activity is an agritourism activity whether or not the participant paid to participate in the activity.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 (2) "Agritourism professional" means any person who is
60 engaged in the business of providing one or more agritourism
61 activities, whether or not for compensation.
62 (3) "Farm" means the land, buildings, support facilities,
63 machinery, and other appurtenances used in the production of
64 farm or aquaculture products, including land used to display
65 plants, animals, farm products, or farm equipment to the public.
66 (4) "Farm operation" has the same meaning as defined in s.
67 823.14.
68 (5) "Inherent risks of agritourism activity" means those
69 dangers or conditions that are an integral part of an
70 agritourism activity including certain hazards, such as surface
71 and subsurface conditions, natural conditions of land,
72 vegetation, and waters; the behavior of wild or domestic
73 animals; and the ordinary dangers of structures or equipment
74 ordinarily used in farming and ranching operations. The term
75 also includes the potential of a participant to act in a
76 negligent manner that may contribute to the injury of the
77 participant or others, including failing to follow the
78 instructions given by the agritourism professional or failing to
79 exercise reasonable caution while engaging in the agritourism
80 activity.
81 Section 3. Section 570.963, Florida Statutes, is created to
82 read:
83 570.963 Liability.—
84 (1) Except as provided in subsection (2), an agritourism
85 professional, his or her employer or employee, or the owner of
86 the underlying land on which the agritourism occurs are not
87 liable for injury or death of, or damage or loss to, a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

88 participant resulting from the inherent risks of agritourism
89 activities if the notice of risk required under s. 570.964 is
90 posted as required. Except as provided in subsection (2), a
91 participant, or a participant's representative, may not maintain
92 an action against or recover from an agritourism professional,
93 his or her employer or employee, and the owner of the underlying
94 land on which the agritourism occurs for the injury or death of,
95 or damage or loss to, an agritourism participant resulting
96 exclusively from any of the inherent risks of agritourism
97 activities. In any action for damages against an agritourism
98 professional, his or her employer or employee, and the owner of
99 the underlying land on which the agritourism occurs for
100 agritourism activity, the agritourism professional, his or her
101 employer or employee, and the owner of the underlying land on
102 which the agritourism occurs must plead the affirmative defense
103 of assumption of the risk of agritourism activity by the
104 participant.
105 (2) In the event of the injury or death of, or damage or
106 loss to, an agritourism participant, subsection (1) does not
107 prevent or limit the liability of an agritourism professional or
108 his or her employer or employee or the owner of the underlying
109 land on which the agritourism occurs if he or she:
110 (a) Commits an act that constitutes negligence or willful
111 or wanton disregard for the safety of the participant, and that
112 act or omission proximately causes injury, damage, or death to
113 the participant;
114 (b) Has actual knowledge or reasonably should have known of
115 a dangerous condition on the land or in the facilities or
116 equipment used in the activity does not make the danger known to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

117 the participant, and the danger proximately causes injury,
118 damage, or death to the participant; or
119 (c) Intentionally injures the participant.
120 (3) The limitation on legal liability afforded by this
121 section to an agritourism professional or his or her employer or
122 employee or the owner of the underlying land on which the
123 agritourism occurs is in addition to any limitations of legal
124 liability otherwise provided by law.
125 Section 4. Section 570.964, Florida Statutes, is created to
126 read:
127 570.964 Posting and notification.—
128 (1)(a) Each agritourism professional shall post and
129 maintain signs that contain the notice of inherent risk
130 specified in subsection (2). A sign shall be placed in a clearly
131 visible location at the entrance to the agritourism location and
132 at the site of the agritourism activity. The notice of inherent
133 risk must consist of a sign in black letters, with each letter a
134 minimum of 1 inch in height, with sufficient color contrast to
135 be clearly visible.
136 (b) Each written contract entered into by an agritourism
137 professional for the providing of professional services,
138 instruction, or the rental of equipment to a participant,
139 regardless of whether the contract involves agritourism
140 activities on or off the location or at the site of the
141 agritourism activity, must contain in clearly readable print the
142 notice of inherent risk specified in subsection (2).
143 (2) The sign and contract required under subsection (1)
144 must contain the following notice of inherent risk:
145

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

146 WARNING
147
148 Under Florida law, an agritourism professional is not
149 liable for injury or death of, or damage or loss to, a
150 participant in an agritourism activity conducted at
151 this agritourism location if such injury, death,
152 damage, or loss results from the inherent risks of the
153 agritourism activity. Inherent risks of agritourism
154 activities include, among others, risks of injury
155 inherent to land, equipment, and animals, as well as
156 the potential for you to act in a negligent manner
157 that may contribute to your injury, death, damage, or
158 loss. You are assuming the risk of participating in
159 this agritourism activity.
160
161 (3) Failure to comply with the requirements of this
162 subsection prevents an agritourism professional, his or her
163 employer or employee, or the owner of the underlying land on
164 which the agritourism occurs from invoking the privileges of
165 immunity provided by this section.
166 Section 5. This act shall take effect July 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Agritourism Amendment

Bill Number: 1106 (if applicable)

Name: Adam Basford

Amendment Barcode: 624918 (if applicable)

Job Title: Director of Legislative Affairs

Address: 315 S Calhoun St
Street

Tallahassee FL 32301
City State Zip

Phone:

E-mail:

Speaking: [x] For [ ] Against [ ] Information

Representing: Florida Farm Bureau

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic: Agritourism

Bill Number: 1106 (if applicable)

Name: Cindy Littlejohn

Amendment Barcode: 624918 (if applicable)

Job Title: Consultant

Address: 310 W. College Ave. (Street)

Tallahassee (City) FL (State) 32301 (Zip)

Phone: 222-7535

E-mail: cJRoe@gmail.com

Speaking: [X] For [ ] Against [ ] Information

Representing: Plum Creek Timber

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/
Meeting Date

Topic: AGRITOURISM

Bill Number: 1106

Name: STEPHEN JAMES

Amendment Barcode (if applicable): 624918

Job Title:

Address: 100 S. MONROE
Street

TALLAHASSEE FL 32301
City State Zip

Phone: (850) 922-4300

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: FLA. ASSOCIATION OF COUNTIES

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Agritourism on Amendment 624918

Bill Number: 1106 (if applicable)

Name: David Cruz

Amendment Barcode: (if applicable)

Job Title: Legislative Advocate

Address: P. O. Box 1757
Street

Tally, FL 32302
City, State, Zip

Phone: 701-3676

E-mail:

Speaking: ☐ For ☐ Against ☒ Information

Representing: FL League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Agritourism

Bill Number: SB 1106 (if applicable)

Name: Butch Calhoun

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: 119 S. Monroe, Suite 300
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 521-0455

E-mail: _____

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Fruit & Vegetable Association

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/12
Meeting Date

Topic: Agritourism

Bill Number: 1106 (if applicable)

Name: Chuck Littlejohn

Amendment Barcode: (if applicable)

Job Title: Littlejohn Associates

Address: 310 W. College Ave
Street

Tall, FL 32310
City, State, Zip

Phone: 850 222-7535

E-mail: chuck@littlejohnassoc.com

Speaking: [X] For [ ] Against [ ] Information

Representing: Florida Land Council

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/2013
Meeting Date

Topic _____

Bill Number 1106 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator John Thrasher, Chair
Committee on Rules

CC: John B. Phelps, Staff Director
Tamra Lyon, Administrative Assistant

Subject: Committee Agenda Request

Date: March 19, 2013

I respectfully request that **Senate Bill #1106**, relating to Agritourism, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Alan Hays
Florida Senate, District 11
320 Senate Office Building
(850) 487-5011

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 1494

INTRODUCER: Judiciary Committee and Senator Thrasher

SUBJECT: Florida False Claims Act

DATE: March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Cibula	JU	**Fav/CS**
2.	Munroe	Phelps	RC	**Pre-meeting**
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/SB 1494 conforms the Florida False Claims Act (FFCA)[1] to the Federal False Claims Act.[2] Specifically, the bill:

- Expands the authority of the Department of Legal Affairs to issue subpoenas to investigate false claims against the state.
- Removes the statement of purpose for the FFCA.
- Revises the definitions under the FFCA to conform to the Federal False Claims Act, revises the violations under the FFCA,
- Revises procedures for the Department of Legal Affairs to intervene in a case under the FFCA.
- Expands the authority of the Attorney General's Office to prosecute false claims allegedly made by certain governmental officials which are not acted upon by other state officials having authority to act.
- Revises provisions for the burden of proof, to provide that if a defendant in a state or federal proceeding is found guilty, pleads guilty, or pleads *nolo contendere* in a criminal action with

[1] Section 68.081, F.S., states that ss. 68.081 - 68.09, F.S., may be cited as the "Florida False Claims Act."
[2] See Federal False Claims Act currently codified at 31 U.S.C. ss. 3729-3733 (Supp IV. 2010).

underlying facts that would support a *qui tam* action, the defendant may not deny any of the matters in the criminal proceeding, as if the department had been a party.

This bill creates section 68.0831, Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 68.081, 68.082, 68.083, 68.084, 68.085, 68.086, 68.087, 68.089, and 68.09.

II. Present Situation:

The Florida False Claims Act (FFCA)[3] authorizes civil actions by individuals and the state against persons who file false claims for payment or approval by a state agency. The Florida Legislature enacted the FFCA in 1994 and the FFCA is modeled after the Federal Civil False Claims Act.[4] The Federal Civil False Claims Act was enacted during the Civil War in response to widespread fraud among defense contractors.[5] The Federal Civil False Claims Act provides that the United States Attorney General and the Department of Justice may enforce the provisions of the federal act.[6] The "*qui tam*" provisions of the Federal Civil False Claims Act, however, also authorize private individuals to enforce its provisions on behalf of the United States.[7] "*Qui tam* action" means "[a]n action brought under a statute that allows a private person to sue for a penalty, part of which the government or some specified public institution will receive."[8]

In 1986, the Federal False Claims Act was substantially amended and the amendments revitalized the qui tam provisions of the federal act by allowing persons to bring an action regardless of the government's prior knowledge of the allegations.[9] As a result of the financial success that the Federal False Claims Act brought for federal government, a number of states in addition to Florida have adopted false claims act with *qui tam* provisions.[10]

In Florida, the FFCA has often been used to combat health care, nursing home, and Medicaid fraud.[11] An action under the FFCA can be brought either by the state itself, or by a private individual on behalf of the state. The Department of Legal Affairs and the Department of Financial Services are responsible for investigating and litigating actions brought under the FFCA. Qui tam actions may be brought by private entities on behalf of the State of Florida.[12]

---

[3] Section 68.081, F.S., *supra* note 1
[4] *See* House Staff Analysis and Economic Impact Statement for SB 1185 (1994 Reg. Sess.) by the House Committee on Judiciary (Mar. 15, 1994) and *see also*, Federal False Claims Act, *supra* note 2.
[5] See *Rainwater v. United States*, 356 U.S. 590, 592 (1958) ("The Act was originally passed in 1863 after disclosure of widespread fraud against the Government during the War Between the States.").
[6] *See* 31 U.S.C. s. 3729.
[7] *See* 31 U.S.C. s. 3730(a) and (b)(1).
[8] BLACK'S LAW DICTIONARY (9th ed. 2009).
[9] House Staff Analysis and Economic Impact Statement for SB 1185 (1994 Reg. Sess.) *supra* note 5.
[10] House Staff Analysis and Economic Impact Statement for SB 1185 (1994 Reg. Sess.) *supra* note 5 and *also see* The False Claims Act Legal Center, Taxpayers Against Fraud Education Fund, State False Claims Acts, http://www.taf.org/states-false-claims-acts (last visited March 12, 2013).
[11] Florida Department of Legal Affairs.
[12] See s. 68.083(2), F.S. *Qui tam* cases usually arise from an employee of an institution such as a health care provider who discovers that violations of the FFCA are occurring. This is a type of whistleblower action. In a *qui tam* action under the FFCA, the employee will sue on behalf of the state to collect money that was illegally defrauded from the state. A private

When a private person files a *qui tam* action, a copy of the complaint and disclosure of all material evidence must be served on the Attorney General, as head of the Department of Legal Affairs, and the Chief Financial Officer, as head of the Department of Financial Services.[13] The FFCA does not explicitly provide that a complaint is to be sealed automatically upon filing. However, certain provisions in s. 68.083, F.S., arguably only have meaning if they are construed to mean that a complaint is automatically sealed. Section 68.083(2), F.S., provides that "[p]rior to the court unsealing the complaint under subsection (3), the action may be voluntarily dismissed …." Section 68.083(5), F.S., allows the Department of Legal Affairs to request an extension of the time during which the complaint remains sealed under subs. 68.035(2), F.S. Furthermore, the Leon County Clerk of Courts office indicated that the office's current practice in order to comply with s. 68.083, F.S., is to automatically seal such complaints for 90 days. The complaint is unsealed on the 91st day unless a party successfully moves the court to keep it under seal.

Section 68.083(3), F.S., also provides that when a private individual brings a potential claim to the attention of the Department of Legal Affairs or the Department of Financial Services, these departments have 60 days to decide whether they are going to intervene and take over litigating the FFCA action from the private individual.

Actions that violate the FFCA include:

- Submitting a false claim for payment or approval;[14]
- Making or using a false record to get a false or fraudulent claim paid or approved;[15]
- Conspiring to make a false claim or to deceive an agency to get a false or fraudulent claim allowed or paid;[16] or
- Making or using a false record to conceal, avoid, or decrease payments owed to the state government.[17]

The penalty for violating the FFCA is $5,500 to $11,000 per claim, plus three times the amount of damages to the state government.[18] For example, if a person is found guilty of making a false claim where he or she defrauded $100,000 from the state, that person is liable to pay the state $300,000 plus the $5,500 to $11,000 penalty per claim.

Section 68.089, F.S., provides a statute of limitation where a civil action under the FFCA cannot be brought:

- More than 6 years after the date on which the false claim against the state is committed; or

---

entity that brings a successful FFCA action on behalf of the state will receive an amount that the court decides is reasonable for collecting the civil penalty and damages. *See* ss. 68.085 and 68.086, F.S. The amount must not be less than 25 percent and not more than 30 percent of the proceeds recovered under a judgment. Section 68.085(3), F.S.

[13] Section 68.083(3), F.S.

[14] Section 68.082(2)(a), F.S.

[15] Section 68.082(2)(b), F.S.

[16] Section 68.082(2)(c), F.S.

[17] Section 68.082(2)(g), F.S.

[18] Section 68.082(2), F.S.

- More than 3 years after the date when the facts are known or reasonably should have been known by the state; but in no event more than 10 years after the date on which the violation is committed.

III. Effect of Proposed Changes:

The Florida False Claims Act – Section 68.081, F.S.

The current statute includes a statement of purpose that the FFCA is:

> to deter persons from knowingly causing or assisting in causing state government to pay claims that are false or fraudulent, and to provide remedies for obtaining treble damages and civil penalties for state government when money is obtained from state government by reason of a false or fraudulent claim.

The bill removes the statement of purpose. The bill clarifies that the Florida False Claims Act includes ss. 68.091 and 68.092, F.S. Section 68.091, F.S., states that the "act shall be liberally construed to effectuate its remedial and deterrent purposes" and also contains a severability clause. Section 68.092, F.S., states that all moneys recovered by the Chief Financial Officer as head of the Department of Financial Services in any civil action for violation of the FFCA based on an action brought under the FFCA must be deposited in the Administrative Trust Fund of the Department of Financial Services.

Definitions – Section 68.082, F.S.

The current statute defines "agency" as an official or other subset of the executive branch of the state government.

The bill removes this definition, and consistently changes the term "agency" throughout the balance of the FFCA to "state." The term "state" is defined in the bill so as to include state agencies, authorities, and instrumentalities. The net effect of these changes is to expand the applicability of the FFCA to state subdivisions and instrumentalities where prior law limited it to executive branch agencies.[19]

The bill also adds definitions for "material" and "obligation"[20] which conforms with definitions found in the Federal False Claims Act. "Material" includes the ability to influence the payment of money, and "obligation" now includes an established duty.

---

[19] *Cf.* Fla. AGO 2011-10, which excludes municipalities from the act because of the definitions of "agency," and "instrumentality." 2011 WL 2429107.

[20] Under the Federal False Claims Act, "material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property. 31 U.S.C. 3729(b)(3). Under the Federal False Claims Act, "obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment. 31 U.S.C. 3729 (b)(4).

Violations under Section 68.082(2), F.S.

The bill substantially expands the jurisdiction of the Department of Legal Affairs to investigate and prosecute violations of the FFCA. Currently, the jurisdiction of the Department of Legal Affairs under the FFCA is limited to pursuing perpetrators of fraudulent claims against executive branch entities. The bill authorizes the Attorney General's Office to investigate or prosecute perpetrators of false claims against any instrumentality of the state, which would include the Legislative and Judicial Branches.

Currently, an agency or the department may take action against perpetrators of false claims. Because the bill consistently removes "agency" and replaces it with "department," the bill makes the Department of Legal Affairs the sole entity in the state to pursue the FFCA, except for those initiated by or intervened in by the Department of Financial Services pursuant to s. 68.083, F.S.

Under the bill, a person is liable under the FFCA who:

- Knowingly presents or causes to be presented a false or fraudulent claim for payment or approval;
- Knowingly makes, uses, or causes to be made or used a false record or statement material to a false or fraudulent claim;
- Conspires to commit a violation the violations statute;
- Has possession, custody, or control of property or money used or to be used by the state and knowingly delivers or causes to be delivered less than all or that money or property;
- Is authorized to make or deliver a document certifying receipt of property used or to be used by the state and, intending to defraud the state, makes or delivers the receipt without knowing that the information on the receipt is true;
- Knowingly buys or received, as a pledge of an obligation or a debt, public property from an officer or employee of the state who may not sell or pledge the property; or
- Knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money or property to the state, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state.

The conduct prohibited by the FFCA as revised by the bill is only subtly different than the conduct prohibited under existing law. The civil penalties for violating the FFCA of $5,500 to $11,000 per claim, plus three times the amount of damages to the state government are unchanged.

Civil Actions for False Claims – Section 68.083, F.S.

Section 68.083(7), F.S., provides that when a private individual brings a potential claim to the attention of the Department of Legal Affairs or the Department of Financial Services, as appropriate, have 60 days to decide whether to intervene and take over litigating the FFCA action from the private individual. The bill removes the reference to "on behalf of the state," which appears to preclude other government entities other than the Department of Legal Affairs or the Department of Financial Services from intervening or bringing a related action.

Subpoenas – Section 68.0831, F.S.

Under current law, the Department of Legal Affairs may investigate claims but is not authorized to issue subpoenas to facilitate the investigation of claims. The department reports that the lack of subpoena authority can make it difficult for the department to determine if it is appropriate to intervene in a FFCA case.

The bill creates s. 68.0831, F.S., to grant the Department of Legal Affairs discovery capabilities prior to the institution of a civil proceeding, if it has reason to believe that any person has testimony or evidence relevant to an investigation. The bill provides that the department may issue subpoenas requiring the recipient to:

- Produce documents;
- Answer interrogatories under oath; and
- Give sworn testimony.

The bill provides:

- A subpoena will be served as other process;
- A subpoena must detail the materials requested and the nature of the conduct to which the materials relate;
- The recipient of a subpoena may petition the Circuit Court of Leon County for relief from the subpoena;
- The recipient of a subpoena has 30 days to respond at the time and place specified, or risk being subject to contempt;
- Transcribed testimony may be reviewed by the deponent;
- The department may stipulate to protective orders; and
- The department may request that a person who refuses to comply on Fifth Amendment grounds may be compelled to comply by the court.

The bill provides that the discovery provisions do not impair the ability of the department to:

- Institute a civil proceeding; or
- Invoke the power of the court to compel production of evidence before a grand jury.

The bill provides for a civil penalty up to $100,000 for a natural person and $1 million for any other entity, plus reasonable attorney fees and costs if the person or entity knowingly creates or destroys evidence while a subpoena is pending.

Rights of Parties in Civil Actions – Section 68.084, F.S.

Currently, the department may dismiss a cause voluntarily over the objections of the person who initiated the action. The bill authorizes the department to dismiss an action “at any point” over the objections of said person.

Currently, the application of one civil remedy under the Act does not preclude another. The bill authorizes the state to elect to pursue a false claim though an administrative remedy to determine a civil monetary penalty, and if the state does so, the person bringing the action has the same rights as the person will have in an action brought through the courts.

The bill also specifies when a finding or conclusion is final once the time for appeal has expired.

Awards to Plaintiffs Bringing Actions – Section 68.085, F.S.

Currently, the private party bringing the action is entitled to recover a portion of the proceeds awarded by the court in the event that the department prevails in a false claims action.

The bill adds that the person bringing the claim will also be entitled to expenses incurred in pursuit of the claim, including reasonable attorney fees and costs. Moreover, those fees and costs will be assessed against the defendant and are payable only from the proceeds of the action.

Expenses and Attorney Fees – Section 68.086, F.S.

Currently, the provisions for the fees and costs of the person bringing the action and the department are contained in the same section of the FFCA. Because the provisions for the payment of private parties has been moved to s. 68.085, F.S., that provision was removed from s. 68.087, F.S., leaving provision for payment of attorney fees to the department intact.

Exemptions to Civil Actions – Section 68.087, F.S.

Government Officials

Section 68.087, F.S., closely resembles the federal false claims statute.[21] Currently, the statute provides that no court shall have jurisdiction over an action under the statute against any member of the Legislature, a member of the judiciary, or a senior execute branch official if the action is based on evidence or information known to the state government.

The bill departs from the federal model, which continues to provide that a court has no jurisdiction over a false claims action for acts known to "the [g]overnment." The bill changes this limitation to information known to the Department of Legal Affairs or Department of Financial Services. This distinction has the effect of expanding potential false claims actions to now include previously excluded government officials where information is not previously known to the Department of Legal Affairs or the Department of Financial Services.

Publicly Disclosed Evidence

Currently if a false claim is brought based upon evidence which was disclosed in a pending investigation, the court does not have jurisdiction to entertain the action. Disclosure of the

[21] 31 U.S.C. 3730(e)(2)(A) provides "[n]o court shall have jurisdiction over an action brought under [the Federal False Claims Act] against a Member of Congress, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the Government when the action was brought."

evidence through the media also causes the court to lose jurisdiction, unless the person bringing the action was the original source of the information.[22]

The bill provides that the court may dismiss an action brought upon publicly disclosed facts, and gives the department the opportunity to object to such dismissal of the action.

Local Governments

Currently, the statute[23] provides that the court has no jurisdiction over a case brought against local governments, which is defined as a county or municipality.

The bill removes the reference to local governments and continues to provide that the court cannot have jurisdiction over an action brought under the act against a county or municipality.

Limitations and Interventions by the Department – Section 68.089, F.S.

Limitation of Actions

Currently, no action may be brought for false claims more than 6 years after the violation, or more than 3 years after the material facts were known to the public official charged with responsibility of the matter, but in no event more than 10 years after the date on which the violation was committed.

Under the bill expands the limitation on actions so that an action may not be brought more than three years after the date when the material facts were known or reasonably should have been known by Department of Legal Affairs or the Department of Financial Services, as appropriate, rather than the state official charged with responsibility of the matter. The distinction of this effect will allow the department to sit in the shoes of the government official who has responsibility for the matter. Therefore, no action may be brought more than 3 years after material facts were known to the department.

Intervention by the Department

The bill adds a new provision which allows the Department of Legal Affairs or the Department of Financial Services, as appropriate, to amend the pleadings if it intervenes in an existing action. It may also file a completely new complaint. For statute of limitations purposes, the bill provides that such changes relate back to the original date the action was brought. The bill authorizes the department to intervene and make such changes in pending actions.

[22] The current provision which deprives the court of jurisdiction subjects a suit in these circumstances to dismissal pursuant to Fla. R. Civ. Pro. 1.140 on the basis of a lack of subject matter jurisdiction. Further, a court order entered without jurisdiction is void. *Blewitt v. Nicholson*, 2 Fla. 200 (1848).
[23] Section 68.088(6), F.S.

Burden of Proof – Section 68.09, F.S.

Currently the statute provides that the State of Florida must prove the essential elements of a false claim action by a preponderance of the evidence. The bill changes the "State of Florida" to the "department."

The bill adds that if a defendant in a state or federal proceeding is found guilty, pleads guilty, or pleads *nolo contendere* in a criminal action with underlying facts that would support a *qui tam* action, the defendant is estopped (may not deny) any of the matters in the criminal proceeding, as if the department had been a party.

Effective date

The bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on March 18, 2013:
The committee substitute corrects a scrivener's error, replacing the word "department" with "state government."

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

298330

LEGISLATIVE ACTION

Senate . House

.
.
.
.
.

The Committee on Rules (Lee) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 188 - 333
4 and insert:
5 Section 4. Effective on the same date that SB 1496 or
6 similar legislation takes effect, if such legislation is adopted
7 in the same legislative session or an extension thereof and
8 becomes a law, section 68.0831, Florida Statutes, is created to
9 read:
10 68.0831 Subpoena.—
11 (1) As used in this section, the term "department" means
12 the Department of Legal Affairs.
13 (2) Whenever the department has reason to believe that any

298330

14 person may be in possession, custody, or control of any
15 documentary material or may have any information, which
16 documentary material or information is relevant to a civil
17 investigation authorized by s. 68.083, the department may,
18 before the institution of a civil proceeding thereon, issue in
19 writing and cause to be served upon the person a subpoena
20 requiring the person to:
21 (a) Produce such documentary material for inspection and
22 copying or reproduction;
23 (b) Answer, under oath and in writing, written
24 interrogatories;
25 (c) Give sworn oral testimony concerning the documentary
26 material or information; or
27 (d) Furnish any combination of such material, answers, or
28 testimony.
29 (3) The subpoena shall:
30 (a) Be served upon the person in the manner required for
31 service of process in this state or by certified mail showing
32 receipt by the addressee or by the authorized agent of the
33 addressee.
34 (b) State the nature of the conduct that constitutes the
35 violation of this act and that is alleged to have occurred or to
36 be imminent.
37 (c) Describe the class or classes of documentary material
38 to be produced thereunder with such definiteness and certainty
39 as to permit such materials to be reasonably identified.
40 (d) Prescribe a date and time at which the person must
41 appear to testify, under oath or affirmation, or by which the
42 person must answer written interrogatories or produce the

298330

43 documentary material for inspection or copying; however, such
44 date shall not be earlier than 30 days after the date of service
45 of the subpoena.
46 (e) Specify a place for the taking of testimony or for the
47 submission of answers to interrogatories and identify the person
48 who is to take custody of any documentary material. Inspection
49 and copying of documentary material shall be carried out at the
50 place where the documentary material is located or at such other
51 place as may be thereafter agreed to by the person and such
52 designated custodian. Upon written agreement between the person
53 and the designated custodian, copies may be substituted for
54 original documents.
55 (4) Such subpoena may not require the production of any
56 documentary material, the submission of any answers to written
57 interrogatories, or the giving of any oral testimony if such
58 material, answers, or testimony would be protected from
59 disclosure under:
60 (a) The standards applicable to subpoenas or subpoenas
61 duces tecum issued by a court of this state in aid of a grand
62 jury investigation; or
63 (b) The standards applicable to a discovery request under
64 the Florida Rules of Civil Procedure, to the extent that the
65 application of such standards to any such subpoena is
66 appropriate and consistent with the provisions and purposes of
67 this act.
68 (5) This section does not limit the power of the department
69 to require the appearance of witnesses or production of
70 documents or other tangible evidence located outside the state.
71 (6) Within 30 days after the service of a subpoena upon any

298330

72 person or at any time before the return date specified therein,
73 whichever period is longer, the person served may file, and
74 serve on the department, a petition for an order of the court
75 modifying or setting aside the subpoena. Any such petition shall
76 be filed in the circuit court of the Second Judicial Circuit in
77 and for Leon County. The time allowed for compliance in whole or
78 in part with the subpoena as deemed proper and ordered by the
79 court shall not run while the petition is pending before the
80 court. The petition shall specify each ground upon which the
81 petitioner relies in seeking relief and may be based upon the
82 failure of the subpoena to comply with this section or upon any
83 constitutional or other legal right or privilege of such person.
84 (7) In case of the failure of any person to comply in whole
85 or in part with a subpoena and when such person has not filed a
86 petition under subsection (6), the circuit court of the Second
87 Judicial Circuit in and for Leon County, upon application of the
88 department, may issue an order requiring compliance. The failure
89 to obey the order of the court shall be punishable as a contempt
90 of court.
91 (8) The examination of all witnesses under this section
92 shall be conducted by the department before an officer
93 authorized to administer oaths in this state. The testimony
94 shall be taken stenographically or by a sound-recording device.
95 Any person compelled to appear under a subpoena for oral
96 testimony pursuant to this section may be accompanied,
97 represented, and advised by counsel. Counsel may advise such
98 person, in confidence, either upon the request of such person or
99 upon counsel’s own initiative, with respect to any question
100 asked of such person. Such person or counsel may object on the

298330

101 record to any question, in whole or in part, and shall briefly
102 state for the record the reason for any such objection. If such
103 person refuses to answer any question, the person conducting the
104 examination may petition the circuit court as provided by
105 subsection (11).
106 (9) When the testimony is fully transcribed, the person
107 conducting the deposition shall afford the witness, and counsel,
108 if any, a reasonable opportunity to examine the transcript, and
109 the transcript shall be read to or by the witness, unless such
110 examination and reading is waived by the witness. Any changes in
111 form or substance that the witness desires to make shall be
112 entered and identified upon the transcript by the officer or the
113 department, with a statement of the reasons given by the witness
114 for making such changes. The transcript shall then be signed by
115 the witness unless the witness waives the signing in writing, is
116 ill, cannot be found, or refuses to sign. If the transcript is
117 not signed by the witness within 30 days after his or her being
118 afforded a reasonable opportunity to examine it, the person
119 conducting the examination shall sign it and state on the record
120 the fact of the waiver, illness, absence, or refusal to sign,
121 together with the reason, if any, given therefor. Any person
122 required to testify or to submit documentary evidence is
123 entitled, on payment of reasonable costs, to procure a copy of
124 any document produced by such person and of his or her own
125 testimony as stenographically reported or, in the case of a
126 deposition, as reduced to writing by or under the direction of
127 the person taking the deposition.
128 (10) The department shall have the authority to stipulate
129 to protective orders with respect to documents and information

298330

130 submitted in response to a subpoena under this section.
131 (11) The department may request that any natural person who
132 refuses to comply with this section on the ground that the
133 testimony or documents may incriminate him or her be ordered by
134 the circuit court to provide the testimony or the documents.
135 Except in a prosecution for perjury, a natural person who
136 complies with a court order to provide testimony or documents
137 after asserting a privilege against self-incrimination to which
138 he or she is entitled by law may not be subject to a criminal
139 proceeding with respect to the transaction to which he or she is
140 required to testify or produce documents. Any natural person who
141 fails to comply with such a court order to testify or produce
142 documents may be adjudged in contempt and imprisoned until the
143 time the person purges himself or herself of the contempt.
144 (12) While in the possession of the custodian, documentary
145 material, answers to interrogatories, and transcripts of oral
146 testimony shall be available, under such reasonable terms and
147 conditions as the department shall prescribe, for examination by
148 the person who produced such materials or answers or that
149 person’s duly authorized representative.
150 (13) This section does not impair the authority of the
151 department to:
152 (a) Institute a civil proceeding under s. 68.083;
153 (b) Invoke the power of a court to compel the production of
154 evidence before a grand jury; or
155 (c) Maintain the confidential and exempt status of the
156 complaint and any other information as provided in s. 68.083(8).
157 (14)(a) A person who knows or has reason to believe that a
158

298330

159 ========== T I T L E A M E N D M E N T ==========
160 And the title is amended as follows:
161 Delete lines 10 - 35
162 and insert:
163 files an action under the act; creating s. 68.0831,
164 F.S.; defining the term "department"; authorizing the
165 Department of Legal Affairs to issue subpoenas for
166 specified purposes before the institution of civil
167 proceedings; providing requirements for the content
168 and service of subpoenas; providing that such
169 subpoenas may not require specified protected
170 documents or testimony; specifying that the
171 department's power to require the appearance of
172 witnesses or production of documents or other tangible
173 evidence located outside the state is unaffected;
174 providing for petitions to modify or set aside
175 subpoenas; providing for orders to comply with
176 subpoenas; providing for the examination of witnesses;
177 providing for review of transcripts of testimony;
178 authorizing the department to stipulate to protective
179 orders of submitted documents and information;
180 providing for natural persons who decline to testify
181 or produce documents after asserting a privilege
182 against self-incrimination to be ordered to testify or
183 produce documents; providing for contempt to comply
184 with such orders; providing for examination of
185 testimony, answers, or materials by the person who
186 produced such materials or answers; providing
187 applicability; prohibiting a person knowing or having

298330

188 reason to believe that a subpoena is pending from
189 tampering with evidence; providing civil penalties;

784344

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Rules (Lee) recommended the following:

1 **Senate Amendment**
2
3 Delete line 597
4 and insert:
5 Section 11. Except as otherwise expressly provided in this
6 act, this act shall take effect July 1, 2013.

By the Committee on Judiciary; and Senator Thrasher

590-02624-13 20131494c1

A bill to be entitled

An act relating to the Florida False Claims Act; amending s. 68.081, F.S.; revising a cross-reference; deleting a statement of purpose; amending s. 68.082, F.S.; deleting, revising, and providing definitions; revising conditions under which a person is liable for a specified civil penalty; amending s. 68.083, F.S.; revising terminology; revising language concerning who may intervene or bring a related action after a person files an action under the act; creating s. 68.0831, F.S.; authorizing the Department of Legal Affairs to issue subpoenas for specified purposes before the institution of civil proceedings; providing requirements for the content and service of subpoenas; providing that such subpoenas may not require specified protected documents or testimony; specifying that the department's power to require the appearance of witnesses or production of documents or other tangible evidence located outside the state is unaffected; providing for petitions to modify or set aside subpoenas; providing for orders to comply with subpoenas; providing for the examination of witnesses; providing for review of transcripts of testimony; authorizing the department to stipulate to protective orders of submitted documents and information; providing for natural persons who decline to testify or produce documents after asserting a privilege against self-incrimination to be ordered to testify or produce documents; providing for contempt to comply

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

590-02624-13 20131494c1

with such orders; providing for examination of testimony, answers, or materials by the person who produced such materials or answers; providing for construction; prohibiting specified actions by a person knowing or having reason to believe that a subpoena is pending; providing civil penalties; amending s. 68.084, F.S.; clarifying that the department may dismiss actions at any point; revising language concerning the costs to the department for continuing to receive pleadings and transcripts of an action after it has elected to withdraw; providing that the state may elect to pursue available alternative remedies, including administrative proceedings; specifying what constitutes a final finding or conclusion in an alternative proceeding that is binding on all parties to an action under the act; amending s. 68.085, F.S.; providing for successful plaintiffs to receive, in addition to a portion of the amount recovered, awards of expenses and attorney fees and costs; amending s. 68.086, F.S.; deleting references to awards of attorney fees to successful plaintiffs; revising provisions relating to awards of attorney fees to the department; amending s. 68.087, F.S.; revising provisions relating to dismissal of an action if substantially the same allegations or transactions as alleged in the action were publicly disclosed; amending s. 68.089, F.S.; providing for the treatment for statutes of limitations purposes of pleadings filed in

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

interventions by the department; amending s. 68.09, F.S.; providing for estoppel as to certain matters following a final judgment or decree rendered in favor of the state or the Federal Government in certain criminal proceedings; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 68.081, Florida Statutes, is amended to read:

68.081 Florida False Claims Act; short title~~; purpose~~.—

~~(1)~~ Sections 68.081-68.092 ~~68.081-68.09~~ may be cited as the "Florida False Claims Act."

~~(2) The purpose of the Florida False Claims Act is to deter persons from knowingly causing or assisting in causing state government to pay claims that are false or fraudulent, and to provide remedies for obtaining treble damages and civil penalties for state government when money is obtained from state government by reason of a false or fraudulent claim.~~

Section 2. Section 68.082, Florida Statutes, is amended to read:

68.082 False claims against the state; definitions; liability.—

(1) As used in this section, the term:

~~(a) "Agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government.~~

(a)~~(b)~~ "Claim" means ~~includes~~ any ~~written or electronically submitted~~ request or demand, whether under a contract or

otherwise, for money or~~,~~ property, regardless of whether the state has title to the money or property, that: ~~or services, which~~

1. Is presented ~~made~~ to any employee, officer, or agent of the state; ~~an agency,~~ or

2. Is made to a ~~any~~ contractor, grantee, or other recipient if the state ~~agency~~ provides or has provided any portion of the money or property requested or demanded, or if the state ~~agency~~ will reimburse the contractor, grantee, or other recipient for any portion of the money or property that is requested or demanded.

(c) "Knowing" or "knowingly" means, with respect to information, that a person:

1. Has actual knowledge of the information;

2. Acts in deliberate ignorance of the truth or falsity of the information; or

3. Acts in reckless disregard of the truth or falsity of the information.

No proof of specific intent to defraud is required. Innocent mistake shall be a defense to an action under this act.

(d) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

(e) "Obligation" means an established duty, fixed or otherwise, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment.

(f) ~~(d)~~ "State ~~government~~" means the government of the state or any department, division, bureau, commission, regional planning agency, board, district, authority, agency, or other instrumentality of the state.

(b) ~~(e)~~ "Department" means the Department of Legal Affairs, except as specifically provided in ss. 68.083 and 68.084.

(2) Any person who:

(a) Knowingly presents or causes to be presented ~~to an officer or employee of an agency~~ a false or fraudulent claim for payment or approval;

(b) Knowingly makes, uses, or causes to be made or used a false record or statement material to ~~get~~ a false or fraudulent claim ~~paid or approved by an agency~~;

(c) Conspires to commit a violation of this subsection ~~submit a false or fraudulent claim to an agency or to deceive an agency for the purpose of getting a false or fraudulent claim allowed or paid~~;

(d) Has possession, custody, or control of property or money used or to be used by the state ~~an agency~~ and~~, intending to deceive the agency or~~ knowingly ~~conceal the property,~~ delivers or causes to be delivered less ~~property~~ than all of that money or property ~~the amount for which the person receives a certificate or receipt~~;

(e) Is authorized to make or deliver a document certifying receipt of property used or to be used by the state ~~an agency~~ and, intending to defraud ~~deceive~~ the state ~~agency~~, makes or delivers the receipt without knowing that the information on the receipt is true;

(f) Knowingly buys or receives, as a pledge of an

obligation or a debt, public property from an officer or employee of the state ~~an agency~~ who may not sell or pledge the property ~~lawfully~~; or

(g) Knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money or property to the state, or knowingly conceals or knowingly and improperly avoids or decreases ~~to conceal, avoid, or decrease~~ an obligation to pay or transmit money or property to the state ~~an agency,~~

is liable to the state for a civil penalty of not less than $5,500 and not more than $11,000 and for treble the amount of damages the state ~~agency~~ sustains because of the act ~~or omission~~ of that person.

(3) The court may reduce the treble damages authorized under subsection (2) if the court finds one or more of the following specific extenuating circumstances:

(a) The person committing the violation furnished the department ~~officials of the agency responsible for investigating false claims violations~~ with all information known to the person about the violation within 30 days after the date on which the person first obtained the information;

(b) The person fully cooperated with any official investigation of the violation; or

(c) At the time the person furnished the department ~~agency~~ with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this section with respect to the violation, and the person did not have actual knowledge of the existence of an

175 investigation into the violation;
176
177 in which case the court shall award no less than 2 times the
178 amount of damages sustained by the state ~~agency~~ because of the
179 act of the person. The court shall set forth in a written order
180 its findings and basis for reducing the treble damages award.
181 Section 3. Subsection (7) of section 68.083, Florida
182 Statutes, is amended to read:
183 68.083 Civil actions for false claims.—
184 (7) When a person files an action under this section, no
185 person other than the department ~~on behalf of the state~~ may
186 intervene or bring a related ~~an~~ action ~~under this act~~ based on
187 the facts underlying the pending action.
188 Section 4. Section 68.0831, Florida Statutes, is created to
189 read:
190 68.0831 Subpoena.—
191 (1) Whenever the department has reason to believe that any
192 person may be in possession, custody, or control of any
193 documentary material or may have any information, which
194 documentary material or information is relevant to a civil
195 investigation authorized by s. 68.083, the department may,
196 before the institution of a civil proceeding thereon, issue in
197 writing and cause to be served upon the person a subpoena
198 requiring the person to:
199 (a) Produce such documentary material for inspection and
200 copying or reproduction;
201 (b) Answer, under oath and in writing, written
202 interrogatories;
203 (c) Give sworn oral testimony concerning the documentary

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

204 material or information; or
205 (d) Furnish any combination of such material, answers, or
206 testimony.
207 (2) The subpoena shall:
208 (a) Be served upon the person in the manner required for
209 service of process in this state or by certified mail showing
210 receipt by the addressee or by the authorized agent of the
211 addressee.
212 (b) State the nature of the conduct that constitutes the
213 violation of this act and that is alleged to have occurred or to
214 be imminent.
215 (c) Describe the class or classes of documentary material
216 to be produced thereunder with such definiteness and certainty
217 as to permit such materials to be reasonably identified.
218 (d) Prescribe a date and time at which the person must
219 appear to testify, under oath or affirmation, or by which the
220 person must answer written interrogatories or produce the
221 documentary material for inspection or copying; however, such
222 date shall not be earlier than 30 days after the date of service
223 of the subpoena.
224 (e) Specify a place for the taking of testimony or for the
225 submission of answers to interrogatories and identify the person
226 who is to take custody of any documentary material. Inspection
227 and copying of documentary material shall be carried out at the
228 place where the documentary material is located or at such other
229 place as may be thereafter agreed to by the person and such
230 designated custodian. Upon written agreement between the person
231 and the designated custodian, copies may be substituted for
232 original documents.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

233 (3) Such subpoena may not require the production of any
234 documentary material, the submission of any answers to written
235 interrogatories, or the giving of any oral testimony if such
236 material, answers, or testimony would be protected from
237 disclosure under:
238 (a) The standards applicable to subpoenas or subpoenas
239 duces tecum issued by a court of this state in aid of a grand
240 jury investigation; or
241 (b) The standards applicable to a discovery request under
242 the Florida Rules of Civil Procedure, to the extent that the
243 application of such standards to any such subpoena is
244 appropriate and consistent with the provisions and purposes of
245 this act.
246 (4) This section does not limit the power of the department
247 to require the appearance of witnesses or production of
248 documents or other tangible evidence located outside the state.
249 (5) Within 30 days after the service of a subpoena upon any
250 person or at any time before the return date specified therein,
251 whichever period is longer, the person served may file, and
252 serve on the department, a petition for an order of the court
253 modifying or setting aside the subpoena. Any such petition shall
254 be filed in the circuit court of the Second Judicial Circuit in
255 and for Leon County. The time allowed for compliance in whole or
256 in part with the subpoena as deemed proper and ordered by the
257 court shall not run while the petition is pending before the
258 court. The petition shall specify each ground upon which the
259 petitioner relies in seeking relief and may be based upon the
260 failure of the subpoena to comply with this section or upon any
261 constitutional or other legal right or privilege of such person.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

262 (6) In case of the failure of any person to comply in whole
263 or in part with a subpoena and when such person has not filed a
264 petition under subsection (5), the circuit court of the Second
265 Judicial Circuit in and for Leon County, upon application of the
266 department, may issue an order requiring compliance. The failure
267 to obey the order of the court shall be punishable as a contempt
268 of court.
269 (7) The examination of all witnesses under this section
270 shall be conducted by the department before an officer
271 authorized to administer oaths in this state. The testimony
272 shall be taken stenographically or by a sound-recording device.
273 Any person compelled to appear under a subpoena for oral
274 testimony pursuant to this section may be accompanied,
275 represented, and advised by counsel. Counsel may advise such
276 person, in confidence, either upon the request of such person or
277 upon counsel's own initiative, with respect to any question
278 asked of such person. Such person or counsel may object on the
279 record to any question, in whole or in part, and shall briefly
280 state for the record the reason for any such objection. If such
281 person refuses to answer any question, the person conducting the
282 examination may petition the circuit court as provided by
283 subsection (10).
284 (8) When the testimony is fully transcribed, the person
285 conducting the deposition shall afford the witness, and counsel,
286 if any, a reasonable opportunity to examine the transcript, and
287 the transcript shall be read to or by the witness, unless such
288 examination and reading is waived by the witness. Any changes in
289 form or substance that the witness desires to make shall be
290 entered and identified upon the transcript by the officer or the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

291 department, with a statement of the reasons given by the witness
292 for making such changes. The transcript shall then be signed by
293 the witness unless the witness waives the signing in writing, is
294 ill, cannot be found, or refuses to sign. If the transcript is
295 not signed by the witness within 30 days after his or her being
296 afforded a reasonable opportunity to examine it, the person
297 conducting the examination shall sign it and state on the record
298 the fact of the waiver, illness, absence, or refusal to sign,
299 together with the reason, if any, given therefor. Any person
300 required to testify or to submit documentary evidence is
301 entitled, on payment of reasonable costs, to procure a copy of
302 any document produced by such person and of his or her own
303 testimony as stenographically reported or, in the case of a
304 deposition, as reduced to writing by or under the direction of
305 the person taking the deposition.
306 (9) The department shall have the authority to stipulate to
307 protective orders with respect to documents and information
308 submitted in response to a subpoena under this section.
309 (10) The department may request that any natural person who
310 refuses to comply with this section on the ground that the
311 testimony or documents may incriminate him or her be ordered by
312 the circuit court to provide the testimony or the documents.
313 Except in a prosecution for perjury, a natural person who
314 complies with a court order to provide testimony or documents
315 after asserting a privilege against self-incrimination to which
316 he or she is entitled by law may not be subject to a criminal
317 proceeding with respect to the transaction to which he or she is
318 required to testify or produce documents. Any natural person who
319 fails to comply with such a court order to testify or produce

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

320 documents may be adjudged in contempt and imprisoned until the
321 time the person purges himself or herself of the contempt.
322 (11) While in the possession of the custodian, documentary
323 material, answers to interrogatories, and transcripts of oral
324 testimony shall be available, under such reasonable terms and
325 conditions as the department shall prescribe, for examination by
326 the person who produced such materials or answers or that
327 person's duly authorized representative.
328 (12) This section does not impair the authority of the
329 department to:
330 (a) Institute a civil proceeding under s. 68.083; or
331 (b) Invoke the power of a court to compel the production of
332 evidence before a grand jury.
333 (13)(a) A person who knows or has reason to believe that a
334 subpoena pursuant to this section is pending shall not:
335 1. Alter, destroy, conceal, or remove any record, document,
336 or thing with the purpose of impairing its verity or
337 availability in such proceeding or investigation; or
338 2. Make, present, or use any record, document, or thing
339 knowing it to be false.
340 (b) Any natural person who violates this subsection is
341 subject to a civil penalty of not more than $100,000, reasonable
342 attorney fees, and costs. Any other person who violates this
343 subsection is subject to a civil penalty of not more than $1
344 million, reasonable attorney fees, and costs.
345 Section 5. Subsections (2) through (5) of section 68.084,
346 Florida Statutes, are amended to read:
347 68.084 Rights of the parties in civil actions.—
348 (2)(a) The department may at any point voluntarily dismiss

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

349 the action notwithstanding the objections of the person
350 initiating the action.
351 (b) Subject to s. 17.04, nothing in this act shall be
352 construed to limit the authority of the department or the qui
353 tam plaintiff to compromise a claim brought in a complaint filed
354 under this act if the court determines, after a hearing, that
355 the proposed settlement is fair, adequate, and reasonable under
356 all the circumstances.
357 (c) Upon a showing by the department that unrestricted
358 participation during the course of the litigation by the person
359 initiating the action would interfere with or unduly delay the
360 department's prosecution of the case, or would be repetitious,
361 irrelevant, or for purposes of harassment, the court may, in its
362 discretion, impose limitations on the person's participation,
363 including, but not limited to:
364 1. Limiting the number of witnesses the person may call;
365 2. Limiting the length of the testimony of the person's
366 witnesses;
367 3. Limiting the person's cross-examination of witnesses; or
368 4. Otherwise limiting the participation by the person in
369 the litigation.
370 (d) Upon a showing by the defendant that unrestricted
371 participation during the course of the litigation by the person
372 initiating the action would be for purposes of harassment or
373 would cause the defendant undue burden or unnecessary expense,
374 the court may limit the participation by the person in the
375 litigation.
376 (3) If the department elects not to proceed with the
377 action, the person who initiated the action has the right to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

378 conduct the action. If the Attorney General, as head of the
379 department, or the Chief Financial Officer, as head of the
380 Department of Financial Services, so requests, it shall be
381 served~~, at the requesting department's expense,~~ with copies of
382 all pleadings and motions filed in the action along with ~~and~~
383 copies of all deposition transcripts at the requesting
384 department's expense. When a person proceeds with the action,
385 the court, without limiting the rights of the person initiating
386 the action, may nevertheless permit the department to intervene
387 and take over the action on behalf of the state at a later date
388 upon showing of good cause.
389 (4) Regardless of whether ~~or not~~ the department proceeds
390 with the action, upon a showing by the department that certain
391 actions of discovery by the person initiating the action would
392 interfere with an investigation by the state ~~government~~ or the
393 prosecution of a criminal or civil matter arising out of the
394 same facts, the court may stay such discovery for a period of
395 not more than 60 days. Such a showing shall be conducted in
396 camera. The court may extend the 60-day period upon a further
397 showing in camera by the department that the criminal or civil
398 investigation or proceeding has been pursued with reasonable
399 diligence and any proposed discovery in the civil action will
400 interfere with an ongoing criminal or civil investigation or
401 proceeding.
402 (5) Notwithstanding paragraph (2)(b), the state may elect
403 to pursue its claim through any available alternate remedy,
404 including any administrative proceeding to determine a civil
405 money penalty. If any such alternate remedy is pursued in
406 another proceeding, the person initiating the action shall have

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

the same rights in such proceeding as the person would have had if the action had continued under this section ~~The application of one civil remedy under this act does not preclude the application of any other remedy, civil or criminal, under this act or any other provision of law. Civil remedies under this act are supplemental, not mutually exclusive~~. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of ~~As used in~~ this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is ~~the term "final" means~~ not subject to judicial review.

Section 6. Section 68.085, Florida Statutes, is amended to read:

68.085 Awards to plaintiffs bringing action.—

(1)(a) If the department proceeds with ~~and prevails in~~ an action brought by a person under this act, subject to the requirements of paragraph (b), the person shall receive ~~except as provided in subsection (2), the court shall order the distribution to the person of~~ at least 15 percent but not more than 25 percent of the proceeds of the ~~recovered under any judgment obtained by the department in an~~ action ~~under s. 68.082~~ or ~~of the proceeds of any~~ settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action.

(b)~~(2)~~ If the ~~department proceeds with an action which the~~ court finds the action to be based primarily on disclosures of

specific information, other than information ~~that~~ provided by the person bringing the action, relating to allegations or transactions in a criminal, civil, or administrative hearing; a legislative, administrative, inspector general, or auditor general report, hearing, audit, or investigation; or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds ~~recovered under a judgment or received in settlement of a claim under this act~~, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation.

(c) Any payment to a person under paragraph (a) or paragraph (b) shall be made from the proceeds. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

(2)~~(3)~~ If the department does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount that ~~which~~ the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds ~~recovered under a judgment rendered in an action under this act or in settlement of a claim under this act~~. The person shall also receive an amount for reasonable expenses that the court finds to have been necessarily incurred, plus reasonable attorney fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

465 (3)~~(4)~~ Following any distributions under subsection (1) or~~,~~
466 subsection (2), ~~or subsection (3),~~ the state entity ~~agency~~
467 injured by the submission of a false or fraudulent claim shall
468 be awarded an amount not to exceed its compensatory damages. If
469 the action was based on a claim of funds from the state Medicaid
470 program, 10 percent of any remaining proceeds shall be deposited
471 into the Operating Trust Fund to fund rewards for persons who
472 report and provide information relating to Medicaid fraud
473 pursuant to s. 409.9203. Any remaining proceeds, including civil
474 penalties awarded under s. 68.082, shall be deposited in the
475 General Revenue Fund.
476 ~~(5) Any payment under this section to the person bringing~~
477 ~~the action shall be paid only out of the proceeds recovered from~~
478 ~~the defendant.~~
479 (4)~~(6)~~ Regardless of whether ~~or not~~ the department proceeds
480 with the action, if the court finds that the action was brought
481 by a person who planned and initiated the violation of s. 68.082
482 upon which the action was brought, the court may, to the extent
483 the court considers appropriate, reduce the share of the
484 proceeds of the action that ~~which~~ the person would otherwise
485 receive under this section, taking into account the role of the
486 person in advancing the case to litigation and any relevant
487 circumstances pertaining to the violation. If the person
488 bringing the action is convicted of criminal conduct arising
489 from his or her role in the violation of s. 68.082, the person
490 shall be dismissed from the civil action and shall not receive
491 any share of the proceeds of the action. Such dismissal shall
492 not prejudice the right of the department to continue the
493 action.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

494 Section 7. Section 68.086, Florida Statutes, is amended to
495 read:
496 68.086 Expenses; attorney ~~attorney's~~ fees and costs.—
497 (1) If the department initiates an action under this act or
498 assumes control of an action brought by a person under this act,
499 the department shall be awarded its reasonable attorney
500 ~~attorney's~~ fees, expenses, and costs.
501 ~~(2) If the court awards the person bringing the action~~
502 ~~proceeds under this act, the person shall also be awarded an~~
503 ~~amount for reasonable attorney's fees and costs. Payment for~~
504 ~~reasonable attorney's fees and costs shall be made from the~~
505 ~~recovered proceeds before the distribution of any award.~~
506 (2)~~(3)~~ If the department does not proceed with an action
507 under this act and the person bringing the action conducts the
508 action, the court may award to the defendant its reasonable
509 attorney ~~attorney's~~ fees and expenses ~~costs~~ if the defendant
510 prevails in the action and the court finds that the claim of the
511 person bringing the action was clearly frivolous, clearly
512 vexatious, or brought primarily for purposes of harassment.
513 (3)~~(4)~~ No liability shall be incurred by the state
514 ~~government, the affected agency,~~ or the department for any
515 expenses, attorney ~~attorney's~~ fees, or other costs incurred by
516 any person in bringing or defending an action under this act.
517 Section 8. Subsections (2), (3), and (6) of section 68.087,
518 Florida Statutes, are amended to read:
519 68.087 Exemptions to civil actions.—
520 (2) In no event may a person bring an action under s.
521 68.083(2) based upon allegations or transactions that are the
522 subject of a civil action or an administrative proceeding in

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

523 which the state ~~agency~~ is already a party.
524 (3) The ~~No~~ court shall dismiss ~~have jurisdiction over~~ an
525 action brought under this act unless opposed by the department,
526 if substantially the same ~~based upon the public disclosure of~~
527 allegations or transactions as alleged in the action were
528 publicly disclosed:
529 (a) In a criminal, civil, or administrative hearing in
530 which the state is a party;
531 (b) In a legislative, administrative, inspector general, or
532 other state ~~Auditor General, Chief Financial Officer, or~~
533 ~~Department of Financial Services~~ report, hearing, audit, or
534 investigation; or
535 (c) From the news media,
536
537 unless the action is brought by the department~~,~~ or ~~unless~~ the
538 person bringing the action is an original source of the
539 information. For purposes of this subsection, the term "original
540 source" means an individual who, before a public disclosure
541 under subsection (3), has voluntarily disclosed to the
542 department the information on which allegations or transactions
543 in a claim are based, or who has knowledge that is independent
544 of and materially adds to the publicly disclosed allegations or
545 transactions ~~has direct and independent knowledge of the~~
546 ~~information on which the allegations are based~~ and has
547 voluntarily provided the information to the department before
548 filing an action under this section ~~act based on the~~
549 ~~information~~.
550 (6) No court shall have jurisdiction over an action brought
551 under this act against ~~a local government. For the purposes of~~

552 ~~this subsection, the term "local government" means~~ any county or
553 municipality.
554 Section 9. Section 68.089, Florida Statutes, is amended to
555 read:
556 68.089 Limitation of actions; effect of interventions by
557 department.—A civil action under this act may not be brought:
558 (1) More than 6 years after the date on which the violation
559 of s. 68.082 is committed; ~~or~~
560 (2) More than 3 years after the date when facts material to
561 the right of action are known or reasonably should have been
562 known by the department ~~state official charged with~~
563 ~~responsibility to act in the circumstances~~, but in no event more
564 than 10 years after the date on which the violation is
565 committed, whichever occurs last; or~~.~~
566 (3) If the department elects to intervene and proceed with
567 an action brought under s. 68.083(2), the department may file
568 its own complaint or amend the complaint of a person who has
569 brought an action under s. 68.083(2) to clarify or add detail to
570 the claims in which the department is intervening and to add any
571 additional claims with respect to which the department contends
572 it is entitled to relief. For statute of limitations purposes,
573 any such pleading shall relate back to the filing date of the
574 complaint of the person who originally brought the action, to
575 the extent that the claim of the state arises out of the
576 conduct, transactions, or occurrences set forth, or attempted to
577 be set forth, in the prior complaint of that person. This
578 subsection applies to any actions under s. 68.083(2) pending on
579 or filed after July 1, 2013.
580 Section 10. Section 68.09, Florida Statutes, is amended to

581 read:
582 68.09 Burden of proof.—
583 (1) In any action brought under this act, the department
584 ~~State of Florida~~ or the qui tam plaintiff shall be required to
585 prove all essential elements of the cause of action, including
586 damages, by a preponderance of the evidence.
587 (2) Notwithstanding any other provision of law, a final
588 judgment or decree rendered in favor of the state or the Federal
589 Government in any criminal proceeding concerning the conduct of
590 the defendant that forms the basis for a civil cause of action
591 under this act, whether upon a verdict after trial or upon a
592 plea of guilty or nolo contendere, shall estop the defendant in
593 any action by the department pursuant to this act as to all
594 matters as to which such judgment or decree would be an estoppel
595 as if the department had been a party in the criminal
596 proceeding.
597 Section 11. This act shall take effect July 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 1792

INTRODUCER: Judiciary Committee

SUBJECT: Medical Negligence Actions

DATE: March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown/Shankle	Cibula		**ju SPB 7030 as introduced**
2.	Brown/Shankle	Phelps	RC	**Favorable**
3.				
4.				
5.				
6.				

I. Summary:

SB 1792 revises the laws relating to ex parte communications and qualifications of expert medical witnesses in medical negligence actions.

The bill allows a health care practitioner or provider who may be called as a witness in a medical negligence action to consult with his or her attorney. During a consultation, the practitioner or provider may disclose information disclosed by a patient or records created during the course of care or treatment of the patient. However, the bill prohibits the attorney from being a conduit for ex parte communications between the practitioner or provider and the defendant or the defendant's insurer. If the liability insurer for the provider or practitioner represents a defendant or prospective defendant in the action:

- The insurer may not choose an attorney for the practitioner, but may recommend attorneys other than the attorney representing the defendant or a prospective defendant.
- The practitioner's attorney may not disclose any information to the insurer, other than categories of work performed or time billed.

The bill also revises informal discovery procedures under chapter 766, F.S., to authorize the defendant and his or her insurer to conduct ex parte interviews of a claimant's treating health care providers.

The bill limits the class of individuals who may offer expert testimony against a defendant specialist in a medical negligence action. These experts must specialize in the same, rather than similar, medical specialty as the defendant.

This bill substantially amends the following sections of the Florida Statutes: 456.057, 766.102, 766.106, 766.1065, and 381.028.

II. Present Situation:

Florida's Physician-Patient Confidentiality Law

Florida's physician-patient confidentiality law is contained in s. 456.057, F.S. The law generally prohibits the release of a patient's medical records and medical information unless the patient provides written consent. However, in the context of medical care, a patient's written consent is not needed to release his or her records to:

- The patient or the patient's legal representative; or
- Other health care providers involved in the care or treatment of the patient.[1]

In the litigation context, the patient's written consent is not required for the release of information and records related to the patient's care or treatment:

- In any civil or criminal action, when a court issues a subpoena, with proper notice to the patient.[2]
- In a medical negligence action or administrative proceeding when a health care practitioner reasonably expects to be named as a defendant.[3]

Case Law on Disclosure of Medical Information by a Subsequent Treating Physician

In the recent case of *Hasan v. Garvar*, the Florida Supreme Court held that Florida's patient confidentiality statute bars communication between a subsequent treating physician and the physician's attorney.[4] The plaintiff in the case alleged that his dentist failure to diagnose and treat his dental conditions resulting in permanent physical and emotional damage.[5]

Subsequent to his medical malpractice filing against the dentist, the plaintiff moved to prevent an ex parte private predeposition conference between the subsequent treating physician and the physician's attorney. The attorney for the subsequent treating physician was appointed by the physician's insurer, which was also the insurer of the defendant dentist.[6] Although different attorneys represented the defendant and the subsequent treating physician, the insurer selected, retained, and paid for both.[7] The trial authorized the predeposition conference but prohibited the discussion of privileged medical information pertaining to the plaintiff.[8]

---

[1] Section 456.057(7)(a), F.S.
[2] Section 456.057(7)(a)3., F.S.
[3] Section 456.057(8), F.S.
[4] *Hasan v. Garvar*, 2012 WL 6619334 (Fla. 2012). Florida's physician-patient confidentiality statute is s. 456.057, F.S.
[5] *Id*. at *1.
[6] *Id*.
[7] *Id*.
[8] *Id*.

The defendant argued that the subsequent treating physician should be allowed to speak with her attorney, ex parte, to address:

- General questions about depositions and trial procedures;
- The potential for legal exposure in the lawsuit as a *Fabre* defendant, including being named as a defendant in a subsequent indemnity action; and
- The potential of giving testimony that could affect board certification or create adverse media coverage.[9]

The court held that the physician-patient confidentiality statute barred ex parte meetings, regardless of the attorney's and physician's assertions that they would limit communication to non-privileged issues. In its opinion, the Court detailed the history of physician-patient privilege in Florida.

Before the patient confidentiality statute was broadened in 1988, the statute only protected a patient's medical records from disclosure. Ex parte communications were freely permitted between defense counsel and a non-party treating physician.[10]

In 1984, in the landmark case of *Coralluzzo v. Fass*, the Florida Supreme Court permitted communication between the defense counsel and a subsequent treating physician.[11] In so doing, the Court indicated that Florida law only addressed confidentiality through medical records.[12] As the law was silent about disclosure through oral communication, the Court stated that its only option was to allow contact: "[w]e note that no evidentiary rule of physician/patient confidentiality exists in Florida and that, although several statutes preserve confidentiality in certain medical records, petitioner has failed to identify a specific statute respondents have infringed."[13]

The *Corralluzzo* case represented the impetus for legislative expansion of physician-patient confidentiality and the decision was subsequently superseded in statute.[14]

In 1990, in *Franklin v. Nationwide Mutual Fire Insurance Co.*, the First District Court of Appeal reviewed a trial court order that required a plaintiff to provide a medical release form to defense counsel.[15] In striking down the lower court decision, the court cited the changes in the law in ruling that the plaintiff now has a statutory right to maintain the confidentiality of his or her medical information.[16] The court classified Florida's physician-patient privilege as providing a limited confidentiality waiver.

---

[9] *Id*. at *7-8.
[10] *Id.* at *2.
[11] *Coralluzzo v. Fass*, 450 So. 2d 858, 859 (Fla. 1984).
[12] *Id*. at 859.
[13] *Id*. at 859.
[14] J.B. Harris, *The Limits of Ex Parte Communications with a Plaintiff's Treating Physicians under Florida Law*, 70 FLA.B.J. 57 (Nov. 1996).
[15] *Franklin v. Nationwide Mutual Fire Insurance Co*., 566 So. 2d 529, 532 (Fla. 1st DCA 1990).
[16] *Id*. at 535.

Specific to the litigation context, the court summarized the waiver as permitting the release of information only if:

- A health care provider is, or reasonably expects to be, named as a defendant.
- The information is compelled by subpoena at deposition, hearing or trial with proper notice.[17]

Moreover, the *Franklin* Court held that a court may not compel a person to authorize the release of his or her confidential medical information to defense counsel.[18]

The Fifth District Court of Appeal reached the same finding as the *Franklin* Court in *Kirkland v. Middleton*.[19] Here, the court prohibited contact where the defendant pledged to limit discussions with treating health care providers to non-privileged matters, such as scheduling deposition testimony and arranging the production of medical records.[20]

The Florida Supreme Court in *Acosta v. Richter* affirmed that Florida intended, through the 1988 amendment of the physician-patient privilege, to "create a physician-patient privilege where none existed before, and to provide an explicit but limited scheme for the disclosure of personal medical information."[21] In response to the defendant's assertion that banning ex parte contact constituted a First Amendment violation of the defendant physician's freedom of speech, the Court noted that the legislature provided an adequate balance between individual privacy rights and society's reasonable need for limited disclosure.[22] Further, the Court took note of the Fifth DCA's rationale in *Kirkland v. Middleton*: "Were unsupervised *ex parte* interviews allowed, medical malpractice plaintiffs could not object and act to protect against inadvertent disclosure of privileged information, nor could they effectively prove that improper disclosure actually took place."[23]

The Florida Supreme Court has twice issued strongly worded opinions prohibiting communications between a subsequent treating health care provider and defense-linked counsel. The *Hasan* Court, however, seemed to leave unanswered the question of whether Florida law imposes a blanket ban on communications between a treating physician and any attorney, including an attorney who has no connection to the defendant. In a strongly-written dissent, Justice Polston took issue with the majority opinion, which "improperly prohibits nonparty physicians from obtaining the legal counsel to which they are entitled under the insurance that they purchased, and … from obtaining ANY legal counsel, even from lawyers not provided by their insurance."[24] The majority did not respond to the dissent's description of the effect of the majority's ruling.

[17] *Id*. at 531.
[18] *Id*. at 535.
[19] *Kirkland v. Middleton*, 639 So. 2d 1002, 1004 (Fla. 5th DCA 1994).
[20] *Id*. at 1004.
[21] *Acosta v. Richter*, 671 So. 2d 149, 154 (Fla. 1996).
[22] *Id*. at 156.
[23] *Kirkland*, 639 So. 2d, at 1004.
[24] *Hasan*, 2012 WL 6619334, at 8.

Medical Specialists as Expert Witnesses

In medical malpractice actions, the plaintiff must prove that the defendant breached the prevailing professional standard of care. Both plaintiffs and defendants use expert witnesses to testify as to what that prevailing standard of care is and whether the defendant breached that standard.

In addition to general laws on evidence, s. 766.102(5), F.S., limits who may be qualified as an expert witness against a specialist who is a defendant in a medical malpractice case. If the defendant is a specialist, only a specialist in the same or a similar specialty as the defendant may testify as an expert.[25] A similar specialty is a specialty that includes the evaluation, diagnosis, or treatment of the medical condition that is the subject of the medical negligence claim.[26] An expert who practices in a similar specialty must also have prior experience treating similar patients.[27] Case law has provided mixed meanings over what constitutes a similar specialty.[28] In *Oken v. Williams*, the First District Court of Appeal noted that: "'Similar specialty' is not defined within the statutes. Case law also provides little useful guidance."[29]

In *Oken v. Williams*, the defendant was a cardiologist and the expert who offered testimony against the defendant was an emergency room physician. The court found that the emergency room physician lacked the expertise to know what to do in the same situation; the expert did not practice in the same or similar specialty and was not qualified to testify.[30]

However, in *Wiess v. Pratt*, the expert was also an emergency room physician and the defendant was an orthopedic surgeon. The case involved a claim that the defendant failed to properly place the plaintiff on a backboard after a football injury. The court found that, because the emergency room physician had the expertise to know what to do in the same situation the expert practiced in the same or similar specialty and was qualified to testify.[31]

In addition to specifying the qualifications of expert witnesses who may testify against a specialist, s. 766.102, F.S., specifies the qualifications of several other expert witnesses.

- Section 766.102(6), F.S., provides that an expert qualified under s. 766.102(5), F.S., who, either through clinical practice or instruction, demonstrates knowledge of the applicable standard of care for nurses, nurse practitioners, certified registered nurse anesthetists, certified registered nurse midwives, physician assistants, or other medical support staff is qualified to give expert testimony on the negligence of such staff.
- Section 766.102(7), F.S., provides that a person may give expert testimony on the standard of care on administrative issues if the person has substantial knowledge concerning the standard of care among health care facilities of the same type as the health care facility whose potential negligence the subject of the testimony.

[25] Section 766.102(5), F.S
[26] *Id*.
[27] Section 766.102(5)(a)2, F.S.
[28] *Weiss v. Pratt*, 53 So. 3d 395, 400 (Fla. 4th DCA 2011).
[29] *Oken v. Williams*, 23 So. 3d 140, 146 (Fla. 1st DCA 2009).
[30] *Id*. at 150.
[31] *Weiss*, 53 So. 3d at 401.

- Section 766.102(8), F.S., provides that if a health care provider is giving evaluation, treatment, or diagnosis for a condition that is not within his or her specialty, then an expert in the treatment, evaluation or diagnosis of that condition shall be considered a similar specialist.
- Section 766.102(9), F.S., provides that in any negligence action against a physician, osteopathic physician, podiatric physician, or chiropractic physician providing emergency medical services in a hospital, the court may accept expert testimony only from physicians, osteopathic physicians, podiatric physicians, and chiropractic physicians who have had substantial professional experience within the preceding 5 years in a hospital emergency department.

Section 766.102(14), F.S., grants a court flexibility in determining whether the experts described in the section may be qualified or disqualified as an expert. Specifically, s. 766.102(14), F.S., allows a court to qualify or disqualify an expert witness" on grounds other than the qualifications specified in [s. 766.102, F.S.]"

In *Oliveros v. Adventist Health Systems/Sunbelt, Inc*., the court held that s. 766.102(14), F.S., allowed a court to consider other experiences by a doctor and admit his expert testimony even though he failed to satisfy the requirements to offer testimony against an emergency room physician. The court found that under s. 766.102(14), F.S., the emergency experience of the expert as part of a medical evacuation team constituted other grounds to admit the expert's testimony.[32]

In an earlier case, *Barrio v. Wilson*, the court excluded similar expert testimony because it found that the expert's qualifications did not satisfy the specific requirements of the applicable standard.[33] *Barrio*, however, was decided before the adoption of s. 766.102(14), F.S.

Specialists and Specialties

The Florida Statutes do not directly define who is a specialist or what specialties exist. However, for advertising purposes, the statutes prohibit a physician from holding himself or herself out as a board-certified specialist unless the physician is recognized as a specialist by the American Board of Medical Specialties or other recognizing agency that has been approved by the Board of Medicine.[34] The additional recognizing agencies include the: American Board of Facial Plastic & Reconstructive Surgery, Inc., American Board of Pain Medicine, American Association of Physician Specialists, Inc./American Board of Physician Specialties, and American Board of Interventional Pain Physicians.[35]

Similarly, an osteopathic physician may not hold himself or herself out as a board-certified specialist unless the osteopathic physician is certified by the American Osteopathic Association or the Graduate Council on Medical Education and is certified as a specialist by a certifying agency approved by the Board of Osteopathic Medicine.[36] The Board of Osteopathic Medicine

[32] *Oliveros v. Adventist Health Systems/Sunbelt, Inc*, 45 So. 3d 873 (Fla. 2d DCA 2010).
[33] *Barrio v. Wilson*, 779 So. 2d 413(Fla. 2d DCA 2000).
[34] Section 458.3312, F.S.
[35] Rule 64B8-11001, F.A.C.
[36] Section 459.0152, F.S.

has approved two recognizing agencies, the American Association of Physician Specialists, Inc., and the American Board of Interventional Pain Physicians.[37]

According to the American Board of Medical Specialties, it certifies nearly 800,000 doctors, representing 80 to 85 percent of all licensed doctors, in 24 specialties.[38] While the American Board of Medical Specialties is the largest certifying medical board in the country, about 200 such boards certify specialists in the United States.[39]

Presuit Process

All medical negligence claims are subject to statutory presuit screening and investigation requirements.[40] After a prospective defendant files a notice of claim, the parties may engage in informal discovery. In fact, failing to do so constitutes grounds for a dismissal of claims.[41] Likewise, a failure to cooperate may be grounds to strike any claim or defense raised by the non-cooperative party.[42] Informal discovery includes the taking of statements of treating health care professionals.[43]

Florida law requires a presuit notice of intent to bring a medical malpractice claim to include an authorization for release of protected health information.[44] The sanction for failing to attach a written authorization to a presuit notice is that the notice is rendered void.[45] Section 766.1065, F.S., provides the form and clarifies that the form is in conformity with HIPAA.[46] The form reads, in part:

AUTHORIZATION FOR RELEASE OF PROTECTED HEALTH INFORMATION

A. I, (...Name of patient or authorized representative...) [hereinafter "Patient"], authorize that (...Name of health care provider to whom the presuit notice is directed...) and his/her/its insurer(s), self-insurer(s), and attorney(s) may obtain and disclose (within the parameters set out below) the protected health information described below for the following specific purposes:

1. Facilitating the investigation and evaluation of the medical negligence claim described in the accompanying presuit notice; or
2. Defending against any litigation arising out of the medical negligence claim made on the basis of the accompanying presuit notice.

[37] Rule 64B15-14.001, F.A.C.
[38] American Board of Medical Specialties, *Board Certification Editorial Background*, http://www.abms.org/news_and_events/media_newsroom/pdf/abms_editorialbackground.pdf (last visited Mar. 12, 2013).
[39] *Id*.
[40] Edward J. Carbone, *Presuit Nuts 'N' Bolts*, 26 No. 4 Trial Advoc. Q. 27, 27 (Fall 2007).
[41] Section 766.106(6)(a), F.S.
[42] Section 766.106(7), F.S.
[43] Section 766.106(6)(b), F.S.
[44] Section 766.1065(1), F.S.
[45] Section 766.1065(1), F.S.
[46] Section 766.1065(3), F.S., cross-references HIPAA law, contained in 45 C.F.R. parts 160 and 164.

B. The health information obtained, used, or disclosed extends to, and includes, the verbal as well as the written and is described as follows:
1. The health information in the custody of the following health care providers who have examined, evaluated, or treated the Patient in connection with injuries complained of after the alleged act of negligence: (List the name and current address of all health care providers). This authorization extends to any additional health care providers that may in the future evaluate, examine, or treat the Patient for the injuries complained of.
2. The health information in the custody of the following health care providers who have examined, evaluated, or treated the Patient during a period commencing 2 years before the incident that is the basis of the accompanying presuit notice.[47]

The Taking of Unsworn Statements

Current law allows for the taking of the following types of unsworn statements:

- Unsworn statements, recorded by either party of the opposing party, limited to the following:
  - The taking of these statements may be used solely for presuit screening, not as evidence in a court case;
  - The party initiating the taking of an unsworn statement must provide written, reasonable notice and an opportunity to have counsel present; and
  - The court may withdraw authority if a party uses this form of discovery for abuse.[48]
- Unsworn statements of treating health care providers by defense counsel:
  - The party taking statements is limited to communication about areas potentially relevant to the personal injury or wrongful death claim; and
  - The party taking statements must provide reasonable notice and the opportunity for the claimant and counsel to attend and be heard.[49]

Statements, discussions, written documents, reports, or other work product produced during the presuit screening process are not discoverable or admissible in civil proceedings for any purpose.[50]

III. Effect of Proposed Changes:

Consultations between a Health Care Practitioner and an Attorney

This bill clarifies that a health care practitioner or provider may consult with his or her own attorney about medical information disclosed by a patient or records generated during the time the practitioner treated the patient. The bill limits the release of the information to those situations in which the health care provider reasonably expects to be deposed, called as a witness, or receive formal or informal discovery requests in a medical negligence action, presuit investigation, or administrative proceeding.

[47] Section 766.1065(3), F.S.
[48] Section 766.106(6)(b)1., F.S.
[49] Section 766.106 (6) (b)1. and 5., F.S.
[50] Section 766.106(5), F.S.

The bill prohibits the attorney for the practitioner or provider who may be called as a witness from disclosing information to the insurer of the practitioner or provider in certain cases. If the medical liability insurer of a health care practitioner or provider represents a defendant or prospective defendant in a medical negligence action, the:

- The insurer may not choose an attorney for the practitioner, but may recommend attorneys other than the attorney representing the defendant or a prospective defendant.
- The practitioner's attorney may not disclose any information to the insurer, other than categories of work performed or time billed.

These limits on disclosures by an attorney do not apply if the attorney and practitioner reasonably expect the practitioner to be named as a defendant, the practitioner receives a presuit notice, or the practitioner is actually named as a defendant.

Ex Parte Interviews of Treating Health Care Providers

This bill allows a defendant or a defendant's counsel to conduct ex parte interviews of treating health care providers without requiring defense to provide notice to the claimant or the opportunity to be present by the claimant or the claimant's counsel. The term "interview" appears to be effectively the same as what is currently authorized in informal discovery as the taking of unsworn statements of treating health care providers, as addressed in the current s. 766.105(6)(b)5., F.S. However, the provision authorizing ex parte interviews does not require advance notice to the claimant or the claimant's legal representative or limit statements to areas potentially relevant to the claim of personal injury or wrongful death. As such, the provision relating to unsworn statements may no longer be needed in statute.

This bill amends the written authorization for release of protected health information required as part of presuit notice.

- The written authorization adds to the list of entities authorized to secure and disclose protected health information, the claimant's treating health care provider, his or her insurer, self-insurer, and counsel.
- The bill adds as a specific basis for release, the purpose of obtaining legal advice or representation arising out of the medical negligence claim.
- The written authorization expressly authorizes any of the entities listed to conduct ex parte interviews of the health care provider holding a claimant's health information without notice to the claimant or the presence of the claimant or the claimant's attorney.

The language in this bill relating to the written authorization is substantially similar to that adopted in Texas law, and upheld by the state Supreme Court.[51] The marked difference between the two forms is that the form provided in this bill contains an express ex parte provision. The Texas form is silent on the issue of ex parte contact. Still, the case in Texas involved a challenge to ex parte contact based on a validly executed written authorization waiver.[52] The Texas form,

[51] The written authorization form provided in Texas law is contained in V.T.C.A., Civil Practice & Remedies Code Section 74.052(c).
[52] *In re Collins*, 286 S.W. 3d 911 (TX 2009).

like the Florida form, authorizes the release of written and verbal protected health information. The trial court granted the plaintiff's motion for a preemptive protective order.[53] The Texas Supreme Court noted that HIPAA did not preempt Texas state law, and specific to the mandates of HIPAA:

> While the rules strongly favor the protection of individual health information, they permit disclosure … in a number of circumstances. … In a judicial proceeding, protected information may be disclosed in response to a court order. … It may also be disclosed without a court order in response to a subpoena or discovery request if the health care provider receives satisfactory assurances that the requestor has made reasonable efforts to ensure that the subject of the information has been given notice of the request. … . Finally, health care information may be disclosed if the patient has executed a validly written authorization.[54]

The plaintiff asserted a HIPAA violation in that written consent in Texas was not voluntary, as execution of the form is a condition to bringing suit (as is the case in Florida). The Court responded that the plaintiff didn't have to bring suit.[55] The Court also noted that although several courts found HIPAA preemption to state law procedures that would permit ex parte contact, none of them involved a validly executed written authorization.[56] On these grounds, the Court vacated the protective order of the trial court.[57]

Medical Specialist as Expert Witnesses

The bill amends s. 766.102(5), F.S., to limit the class of specialists qualified to offer expert testimony in a medical negligence action against a defendant specialist, to those specialists who practice in the same specialty as the defendant.

The bill repeals s. 766.102(14), F.S. This appears to have the effect of overturning *Oliveros v. Adventist Health Systems/Sunbelt, Inc.* and reinstating the holding in *Barrio v. Wilson.* Accordingly, the repeal of the subsection appears to remove the discretion of the court to qualify or disqualify an expert witness on grounds other than the specific qualifications specified in ss. 766.102(5)-(9), F.S.

Effective Date

The bill takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

---

[53] *Id*. at 914.
[54] *Id*. at 917-918.
[55] *Id*. at 920.
[56] *Id*.
[57] *Id*. at 920-921.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Medical practitioners and providers who may be called as witnesses in medical negligence actions will clear rights to consult with an attorney.

Access to information through ex parte interviews may facilitate the evaluation of a medical negligence claim by the defendant or the defendant's insurer.

C. Government Sector Impact:

According to the Office of the State Courts Administrator, the "stringent requirements in relation to expert witness testimony will reduce the expenditure of judicial time."

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

456098

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/02/2013	.	
	.	
	.	
	.	

The Committee on Rules (Smith) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 137 - 171.
4
5 ========== T I T L E A M E N D M E N T ==========
6 And the title is amended as follows:
7 Delete lines 22 - 25
8 and insert:
9 practitioner or provider; amending

By the Committee on Judiciary

590-02644-13 20131792__

A bill to be entitled

An act relating to medical negligence actions; amending s. 456.057, F.S.; authorizing a health care practitioner or provider who reasonably expects to be deposed, to be called as a witness, or to receive discovery requests to consult with an attorney on certain matters; authorizing the disclosure of patient information in connection with litigation under certain circumstances; prohibiting a medical liability insurer from selecting an attorney for a health care practitioner or provider; authorizing a medical liability insurer to recommend an attorney to a health care practitioner or provider under certain circumstances; restricting the health care practitioner's or provider's attorney from disclosing information to the medical liability insurer under certain circumstances; authorizing the health care practitioner's or provider's attorney to represent the insurer or other insureds of the insurer in unrelated matters; specifying exceptions to the limitations on disclosures by the attorney to the insurer of the practitioner or provider; amending s. 766.102, F.S.; revising qualifications to give expert testimony on the prevailing professional standard of care; deleting provision regarding limitations of section; amending s. 766.106, F.S.; providing that a prospective defendant may conduct an ex parte interview with a claimant's treating health care provider as a tool of informal discovery; amending s. 766.1065, F.S.;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

590-02644-13 20131792__

revising the form for the authorization of release of protected health information; providing for the release of protected health information to certain treating health care providers, insurers, and attorneys; authorizing a treating health care provider, insurer, or attorney to use protected health information in connection with legal services relating to a medical negligence claim; authorizing certain individuals and entities to conduct ex parte interviews with the claimant's health care providers; amending s. 381.028, F.S.; conforming a cross-reference to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (7) and (8) of section 456.057, Florida Statutes, are amended, and present subsections (9) through (21) of that section are renumbered as subsections (8) through (20), respectively, to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished; disclosure of information.—

(7)(a) Except as otherwise provided in this section and in s. 440.13(4)(c), such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient, ~~or~~ the patient's legal representative, or other health care practitioners and providers involved in the patient's care or treatment ~~of the patient~~, except upon written authorization from ~~of~~ the patient. However,

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 such records may be furnished without written authorization
60 under the following circumstances:
61 1. To any person, firm, or corporation that has procured or
62 furnished such care ~~examination~~ or treatment with the patient's
63 consent.
64 2. When compulsory physical examination is made pursuant to
65 Rule 1.360, Florida Rules of Civil Procedure, in which case
66 copies of the medical records shall be furnished to both the
67 defendant and the plaintiff.
68 3. In any civil or criminal action, unless otherwise
69 prohibited by law, upon the issuance of a subpoena from a court
70 of competent jurisdiction and proper notice to the patient or
71 the patient's legal representative by the party seeking such
72 records.
73 4. For statistical and scientific research, provided the
74 information is abstracted in such a way as to protect the
75 identity of the patient or provided written permission is
76 received from the patient or the patient's legal representative.
77 5. To a regional poison control center for purposes of
78 treating a poison episode under evaluation, case management of
79 poison cases, or compliance with data collection and reporting
80 requirements of s. 395.1027 and the professional organization
81 that certifies poison control centers in accordance with federal
82 law.
83 (b) Absent a specific written release or authorization
84 permitting utilization of patient information for solicitation
85 or marketing the sale of goods or services, any use of that
86 information for those purposes is prohibited.
87 (c) ~~(8) Except in a medical negligence action or~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

88 ~~administrative proceeding when a health care practitioner or~~
89 ~~provider is or reasonably expects to be named as a defendant,~~
90 Information disclosed to a health care practitioner by a patient
91 in the course of the care and treatment of such patient is
92 confidential and may be disclosed only to other health care
93 practitioners and providers involved in the care or treatment of
94 the patient, ~~or~~ if allowed ~~permitted~~ by written authorization
95 from the patient, or if compelled by subpoena at a deposition,
96 evidentiary hearing, or trial for which proper notice has been
97 given.
98 (d) Notwithstanding paragraphs (a)-(c), information
99 disclosed by a patient to a health care practitioner or provider
100 or records created by the practitioner or provider during the
101 course of care or treatment of the patient may be disclosed:
102 1. In a medical negligence action or administrative
103 proceeding if the health care practitioner or provider is or
104 reasonably expects to be named as a defendant;
105 2. Pursuant to s. 766.106(6)(b)5.;
106 3. As provided for in the authorization for release of
107 protected health information filed by the patient pursuant to s.
108 766.1065; or
109 4. To the health care practitioner's or provider's attorney
110 during a consultation if the health care practitioner or
111 provider reasonably expects to be deposed, to be called as a
112 witness, or to receive formal or informal discovery requests in
113 a medical negligence action, presuit investigation of medical
114 negligence, or administrative proceeding.
115 a. If the medical liability insurer of a health care
116 practitioner or provider described in this subparagraph

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

117 represents a defendant or prospective defendant in a medical
118 negligence action:
119 (I) The insurer may not select an attorney for the
120 practitioner or the provider. However, the insurer may recommend
121 attorneys who do not represent a defendant or prospective
122 defendant in the matter.
123 (II) The attorney selected by the practitioner or the
124 provider may not, directly or indirectly, disclose to the
125 insurer any information relating to the representation of the
126 practitioner or the provider other than the categories of work
127 performed or the amount of time applicable to each category for
128 billing or reimbursement purposes. The attorney selected by the
129 practitioner or the provider may represent the insurer or other
130 insureds of the insurer in an unrelated matter.
131 b. The limitations in this subparagraph do not apply if the
132 attorney reasonably expects the practitioner or provider to be
133 named as a defendant and the practitioner or provider agrees
134 with the attorney's assessment, if the practitioner or provider
135 receives a presuit notice pursuant to chapter 766, or if the
136 practitioner or provider is named as a defendant.
137 Section 2. Paragraph (a) of subsection (5) and subsection
138 (14) of section 766.102, Florida Statutes, are amended to read:
139 766.102 Medical negligence; standards of recovery; expert
140 witness.—
141 (5) A person may not give expert testimony concerning the
142 prevailing professional standard of care unless the person is a
143 health care provider who holds an active and valid license and
144 conducts a complete review of the pertinent medical records and
145 meets the following criteria:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

146 (a) If the health care provider against whom or on whose
147 behalf the testimony is offered is a specialist, the expert
148 witness must:
149 1. Specialize in the same specialty as the health care
150 provider against whom or on whose behalf the testimony is
151 offered; ~~or specialize in a similar specialty that includes the~~
152 ~~evaluation, diagnosis, or treatment of the medical condition~~
153 ~~that is the subject of the claim and have prior experience~~
154 ~~treating similar patients;~~ and
155 2. Have devoted professional time during the 3 years
156 immediately preceding the date of the occurrence that is the
157 basis for the action to:
158 a. The active clinical practice of, or consulting with
159 respect to, the same ~~or similar~~ specialty ~~that includes the~~
160 ~~evaluation, diagnosis, or treatment of the medical condition~~
161 ~~that is the subject of the claim and have prior experience~~
162 ~~treating similar patients~~;
163 b. Instruction of students in an accredited health
164 professional school or accredited residency or clinical research
165 program in the same ~~or similar~~ specialty; or
166 c. A clinical research program that is affiliated with an
167 accredited health professional school or accredited residency or
168 clinical research program in the same ~~or similar~~ specialty.
169 ~~(14) This section does not limit the power of the trial~~
170 ~~court to disqualify or qualify an expert witness on grounds~~
171 ~~other than the qualifications in this section.~~
172 Section 3. Paragraph (b) of subsection (6) of section
173 766.106, Florida Statutes, is amended to read:
174 766.106 Notice before filing action for medical negligence;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

175 presuit screening period; offers for admission of liability and
176 for arbitration; informal discovery; review.—
177 (6) INFORMAL DISCOVERY.—
178 (b) Informal discovery may be used by a party to obtain
179 unsworn statements, the production of documents or things, and
180 physical and mental examinations, as follows:
181 1. Unsworn statements.—Any party may require other parties
182 to appear for the taking of an unsworn statement. Such
183 statements may be used only for the purpose of presuit screening
184 and are not discoverable or admissible in any civil action for
185 any purpose by any party. A party desiring to take the unsworn
186 statement of any party must give reasonable notice in writing to
187 all parties. The notice must state the time and place for taking
188 the statement and the name and address of the party to be
189 examined. Unless otherwise impractical, the examination of any
190 party must be done at the same time by all other parties. Any
191 party may be represented by counsel at the taking of an unsworn
192 statement. An unsworn statement may be recorded electronically,
193 stenographically, or on videotape. The taking of unsworn
194 statements is subject to the provisions of the Florida Rules of
195 Civil Procedure and may be terminated for abuses.
196 2. Documents or things.—Any party may request discovery of
197 documents or things. The documents or things must be produced,
198 at the expense of the requesting party, within 20 days after the
199 date of receipt of the request. A party is required to produce
200 discoverable documents or things within that party's possession
201 or control. Medical records shall be produced as provided in s.
202 766.204.
203 3. Physical and mental examinations.—A prospective

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

204 defendant may require an injured claimant to appear for
205 examination by an appropriate health care provider. The
206 prospective defendant shall give reasonable notice in writing to
207 all parties as to the time and place for examination. Unless
208 otherwise impractical, a claimant is required to submit to only
209 one examination on behalf of all potential defendants. The
210 practicality of a single examination must be determined by the
211 nature of the claimant's condition, as it relates to the
212 liability of each prospective defendant. Such examination report
213 is available to the parties and their attorneys upon payment of
214 the reasonable cost of reproduction and may be used only for the
215 purpose of presuit screening. Otherwise, such examination report
216 is confidential and exempt from the provisions of s. 119.07(1)
217 and s. 24(a), Art. I of the State Constitution.
218 4. Written questions.—Any party may request answers to
219 written questions, the number of which may not exceed 30,
220 including subparts. A response must be made within 20 days after
221 receipt of the questions.
222 5. Ex parte interviews of treating health care providers.—A
223 prospective defendant or his or her legal representative may
224 interview the claimant's treating health care providers without
225 notice to, or the presence of, the claimant or the claimant's
226 legal representative.
227 6.~~5.~~ Unsworn statements of treating health care providers.—
228 A prospective defendant or his or her legal representative may
229 also take unsworn statements of the claimant's treating health
230 care providers. The statements must be limited to those areas
231 that are potentially relevant to the claim of personal injury or
232 wrongful death. Subject to the procedural requirements of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

233 subparagraph 1., a prospective defendant may take unsworn
234 statements from a claimant's treating physicians. Reasonable
235 notice and opportunity to be heard must be given to the claimant
236 or the claimant's legal representative before taking unsworn
237 statements. The claimant or claimant's legal representative has
238 the right to attend the taking of such unsworn statements.
239 Section 4. Subsection (3) of section 766.1065, Florida
240 Statutes, is amended to read:
241 766.1065 Authorization for release of protected health
242 information.—
243 (3) The authorization required by this section shall be in
244 the following form and shall be construed in accordance with the
245 "Standards for Privacy of Individually Identifiable Health
246 Information" in 45 C.F.R. parts 160 and 164:
247
248 AUTHORIZATION FOR RELEASE OF
249 PROTECTED HEALTH INFORMATION
250
251 A. I, (...Name of patient or authorized
252 representative...) [hereinafter "Patient"], authorize
253 that (...Name of health care provider to whom the
254 presuit notice is directed...) and his/her/its
255 insurer(s), self-insurer(s), and attorney(s), and the
256 designated treating health care provider(s) listed
257 below and his/her/its insurer(s), self-insurer(s), and
258 attorney(s) may obtain and disclose (within the
259 parameters set out below) the protected health
260 information described below for the following specific
261 purposes:

262 1. Facilitating the investigation and evaluation
263 of the medical negligence claim described in the
264 accompanying presuit notice; ~~or~~
265 2. Defending against any litigation arising out
266 of the medical negligence claim made on the basis of
267 the accompanying presuit notice; or~~.~~
268 3. Obtaining legal advice or representation
269 arising out of the medical negligence claim described
270 in the accompanying presuit notice.
271 B. The health information obtained, used, or
272 disclosed extends to, and includes, ~~the~~ verbal health
273 information as well as ~~the~~ written health information
274 and is described as follows:
275 1. The health information in the custody of the
276 following health care providers who have examined,
277 evaluated, or treated the Patient in connection with
278 injuries complained of after the alleged act of
279 negligence: (List the name and current address of all
280 health care providers). This authorization extends to
281 any additional health care providers that may in the
282 future evaluate, examine, or treat the Patient for the
283 injuries complained of.
284 2. The health information in the custody of the
285 following health care providers who have examined,
286 evaluated, or treated the Patient during a period
287 commencing 2 years before the incident that is the
288 basis of the accompanying presuit notice.
289
290 (List the name and current address of such health care

291 providers, if applicable.)
292
293 C. This authorization does not apply to the
294 following list of health care providers possessing
295 health care information about the Patient because the
296 Patient certifies that such health care information is
297 not potentially relevant to the claim of personal
298 injury or wrongful death that is the basis of the
299 accompanying presuit notice.
300
301 (List the name of each health care provider to whom
302 this authorization does not apply and the inclusive
303 dates of examination, evaluation, or treatment to be
304 withheld from disclosure. If none, specify "none.")
305
306 D. The persons or class of persons to whom the
307 Patient authorizes such health information to be
308 disclosed or by whom such health information is to be
309 used:
310 1. Any health care provider providing care or
311 treatment for the Patient.
312 2. Any liability insurer or self-insurer
313 providing liability insurance coverage, self-
314 insurance, or defense to any health care provider to
315 whom presuit notice is given, or to any health care
316 provider listed in subsections B.1.-2. above,
317 regarding the care and treatment of the Patient.
318 3. Any consulting or testifying expert employed
319 by or on behalf of (name of health care provider to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

320 whom presuit notice was given) and his/her/its
321 insurer(s), self-insurer(s), or attorney(s) regarding
322 the matter of the presuit notice accompanying this
323 authorization.
324 4. Any attorney (including his/her ~~secretarial,~~
325 ~~clerical, or paralegal~~ staff) employed by or on behalf
326 of (name of health care provider to whom presuit
327 notice was given) or employed by or on behalf of any
328 health care provider(s) listed in subsections B.1.-2.
329 above, regarding the matter of the presuit notice
330 accompanying this authorization or the care and
331 treatment of the Patient.
332 5. Any trier of the law or facts relating to any
333 suit filed seeking damages arising out of the medical
334 care or treatment of the Patient.
335 E. This authorization expressly allows the
336 persons or class of persons listed in subsections
337 D.2.-4. above to interview the health care providers
338 listed in subsections B.1.-2. above, without notice to
339 or the presence of the Patient or the Patient's
340 attorney.
341 F.~~E.~~ This authorization expires upon resolution
342 of the claim or at the conclusion of any litigation
343 instituted in connection with the matter of the
344 presuit notice accompanying this authorization,
345 whichever occurs first.
346 G.~~F.~~ The Patient understands that, without
347 exception, the Patient has the right to revoke this
348 authorization in writing. The Patient further

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

349 understands that the consequence of any such
350 revocation is that the presuit notice under s.
351 766.106(2), Florida Statutes, is deemed retroactively
352 void from the date of issuance, and any tolling effect
353 that the presuit notice may have had on any applicable
354 statute-of-limitations period is retroactively
355 rendered void.
356 H.~~G.~~ The Patient understands that signing this
357 authorization is not a condition for continued
358 treatment, payment, enrollment, or eligibility for
359 health plan benefits.
360 I.~~H.~~ The Patient understands that information
361 used or disclosed under this authorization may be
362 subject to additional disclosure by the recipient and
363 may not be protected by federal HIPAA privacy
364 regulations.
365
366 Signature of Patient/Representative: ....
367 Date: ....
368 Name of Patient/Representative: ....
369 Description of Representative's Authority: ....
370 Section 5. Paragraph (c) of subsection (7) of section
371 381.028, Florida Statutes, is amended to read:
372 381.028 Adverse medical incidents.—
373 (7) PRODUCTION OF RECORDS.—
374 (c)1. Fees charged by a health care facility for copies of
375 records requested by a patient under s. 25, Art. X of the State
376 Constitution may not exceed the reasonable and actual cost of
377 complying with the request, including a reasonable charge for

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

378 the staff time necessary to search for records and prevent the
379 disclosure of the identity of any patient involved in the
380 adverse medical incident through redaction or other means as
381 required by the Health Insurance Portability and Accountability
382 Act of 1996 or its implementing regulations. The health care
383 facility may require payment, in full or in part, before acting
384 on the records request.
385 2. Fees charged by a health care provider for copies of
386 records requested by a patient under s. 25, Art. X of the State
387 Constitution may not exceed the amount established under s.
388 456.057(17) ~~s. 456.057(18)~~, which may include a reasonable
389 charge for the staff time necessary to prevent the disclosure of
390 the identity of any patient involved in the adverse medical
391 incident through redaction or other means as required by the
392 Health Insurance Portability and Accountability Act of 1996 or
393 its implementing regulations. The health care provider may
394 require payment, in full or in part, before acting on the
395 records request.
396 Section 6. This act shall take effect July 1, 2013.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04.02.13
Meeting Date

Topic: Medical Negligence Actions

Bill Number: 1792 *(if applicable)*

Name: Tom Dukes

Amendment Barcode: 456098 *(if applicable)*

Job Title:

Address: 108 E Central Blvd
Street

Orlando, FL, 32801
City, State, Zip

Phone: (407) 423-8571

E-mail: tdukes@mmdorl.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: Florida Justice Reform Institute

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: AMEND. TO STRIKE SAME/SIMILAR CHANGES

Bill Number: SB 1792 (if applicable)

Name: KEN SOBEL

Amendment Barcode: (if applicable)

Job Title: ATTORNEY

Address: 7460 NW 127 TER.
Street

PARKLAND FL 33076
City State Zip

Phone: 954-249-1078

E-mail: KENJSOBEL@GMAIL.COM

Speaking: [x] For [ ] Against [ ] Information

Representing: SELF

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04.02.13
Meeting Date

Topic: Medical Negligence Actions

Bill Number: 1792 *(if applicable)*

Name: Tom Dukes

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 108 E Central Blvd
Street

Orlando — FL — 32801
City — *State* — *Zip*

Phone: (407) 423-8571

E-mail: tdukes@mmdorl.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: Florida Justice Reform Institute

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04.02.13
Meeting Date

Topic: Medical Negligence Actions

Bill Number: 1792 *(if applicable)*

Name: Andrew Bolin

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 201 One Tampa Center Road
Street

Tampa, FL 33602
City, State, Zip

Phone: (813) 226-3000

E-mail: asb@bmmbw.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: Florida Justice Reform Institute

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04.02.13
Meeting Date

Topic: Medical Negligence Actions

Bill Number: 1792 *(if applicable)*

Name: Tom Dukes

Amendment Barcode: 456098 *(if applicable)*

Job Title:

Address: 108 E Central Blvd
Street

Orlando — *City*
FL — *State*
32801 — *Zip*

Phone: (407) 423-8571

E-mail: tdukes@mmdorl.com

Speaking: ☐ For ☑ Against ☐ Information

Representing: Florida Justice Reform Institute

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/2013
Meeting Date

Topic _____

Bill Number 1792 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic _____

Bill Number SB 1792 *(if applicable)*

Name Jeff Scott

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 1430 E. Piedmont Dr.
Street

TLH FL 32308
City *State* *Zip*

Phone 222-6496

E-mail jscott@medone.org

Speaking: [✓] For [ ] Against [ ] Information

Representing Florida Medical Association

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Medical Liability

Bill Number: 2792 (if applicable)

Name: Bill Bell

Amendment Barcode: (if applicable)

Job Title: General Counsel

Address: 306 E. College Ave
Street

TLH, FL 32301
City, State, Zip

Phone: 222-9800

E-mail: billbe@fha.org

Speaking: [x] For [ ] Against [ ] Information

Representing: Fla. Hospital Assn

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: Medical Malpractice bill

Bill Number: 1792 *(if applicable)*

Name: Allison Anderson

Amendment Barcode: _____ *(if applicable)*

Job Title: Stay at home mom

Address: 230 Normandy Circle East
Street

Palm Harbor, FL 34683
City *State* *Zip*

Phone: 727/804-4229

E-mail: ajjudge@verizon.net

Speaking: ☐ For ☒ Against ☐ Information

Representing: Myself and my family

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Medical Negligence

Bill Number: 1792 (if applicable)

Name: Leslie Krueger

Amendment Barcode: (if applicable)

Job Title: Attorney

Address: 2035 SW Panther Trace
Street

Stuart, FL 34997
City, State, Zip

Phone: 772-475-9634

E-mail: lesliemkrueger@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

Representing:

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: Medical malpractice bill

Bill Number: 1792 (if applicable)

Name: Allison Anderson

Amendment Barcode: (if applicable)

Job Title: stay at home mom

Address: 230 Normandy Cir E
Street

Palm Harbor FL
City State Zip

Phone:

E-mail:

Speaking: ☐ For ☒ Against ☐ Information

Representing: self and family

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date: _____

Topic: _____

Bill Number: 1792 (if applicable)

Name: Allison Anderson

Amendment Barcode: _____ (if applicable)

Job Title: stay at home mom

Address: 230 Normandy Cir E
Street

Palm Harbor, Fl
City State Zip

Phone: _____

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: [redacted] self and fam

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Medical Liability

Bill Number: SB 1792 *(if applicable)*

Name: Carolyn Johnson

Amendment Barcode: *(if applicable)*

Job Title: Director of Business, Economic Development & Innovation

Address: 136 S Bronough St
Street

Tallahassee, FL 32311
City, State, Zip

Phone: 850-521-1235

E-mail: cjohnson@flchamber.com

Speaking: [✓] For [ ] Against [ ] Information

Representing: FL Chamber of Commerce

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 2, 13
Meeting Date

Topic: Waive in Support

Bill Number: 1792 (if applicable)

Name: Toni Large

Amendment Barcode: (if applicable)

Job Title: Government Affairs

Address: 519 E. Park Ave.
Street

Tallahassee FL 32301
City State Zip

Phone: 556-1461

E-mail: toni@sulaw.net

Speaking: [x] For [ ] Against [ ] Information

Representing: Florida Orthopedic Society (Orthopedic Surgeons) & Florida College of Emergency Physicians

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic _____

Bill Number 1792 (if applicable)

Name Chris Nuland

Amendment Barcode _____ (if applicable)

Job Title _____

Address 1000 Riverside Ave #115
Street

Jacksonville, FL 32204
City State Zip

Phone 904-233-3051

E-mail nuland

Speaking: [x] For [ ] Against [ ] Information

Representing Florida Chapter, American College of Physicians Florida Chapter, American College of Surgeons

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: EX PARTE & SAME/SIMILAR EXPERT

Bill Number: SB 1792 (if applicable)

Name: KEN SOBEL

Amendment Barcode: (if applicable)

Job Title: ATTORNEY

Address: 7460 NW 127 TER
Street

PARKLAND, FL 33076
City, State, Zip

Phone: 954-249-1078

E-mail: KENJSOBEL@GMAIL.COM

Speaking: ☐ For ☒ Against ☐ Information

Representing: SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

WAIVE IN SUPPORT

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-2013
Meeting Date

Topic: MEDICAL NEGLIGENCE ACTIONS

Bill Number: SB 1792 (if applicable)

Name: STEPHEN R. WINN

Amendment Barcode: (if applicable)

Job Title: EXECUTIVE DIRECTOR

Address: 2007 APALACHEE PARKWAY
Street

TALLAHASSEE FL 32301
City State Zip

Phone: 878-7463

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Waive in Support

4/2/13
Meeting Date

Topic: Tort Reform

Bill Number: 1792 (if applicable)

Name: Ron Watson

Amendment Barcode: _____ (if applicable)

Job Title: Lobbyist

Address: 118 E Jefferson St
Street

Tallahassee, FL 32301
City, State, Zip

Phone: 850 224 1089

E-mail: rwatson@floridadental.org

Speaking: [X] For [ ] Against [ ] Information

Representing: FDA - Florida Dental Assoc

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Appropriations Subcommittee on Health and Human Services
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Banking and Insurance
Ethics and Elections
Gaming
Rules
Transportation

SENATOR TOM LEE
Deputy Majority Leader
24th District

RECEIVED
MAR 27 2013
SENATE
RULES COMMITTEE

March 26, 2013

The Honorable John Thrasher
Senate Rules Committee, Chair
400 Senate Office Building
404 South Monroe St.
Tallahassee, Fl 32399

Dear Chairman Thrasher,

I respectfully request that SB 1792 related to the *Medical Negligence Actions*, be placed on the Senate Rules committee agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

Tom Lee
Senator, District 24

Cc: John Phelps, Rules Committee Staff Director
Tom Cibula, Judiciary Committee Staff Director

REPLY TO:
☐ 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
☐ 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: *www.flsenate.gov*

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/SB 1030

INTRODUCER: Gaming Committee and Senators Thrasher and Bradley

SUBJECT: Prohibition of Electronic Gaming Devices

DATE: March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Guthrie	Guthrie	GM	**Fav/CS**
2.	Guthrie	Phelps	RC	**Favorable**
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/SB 1030 clarifies current gambling laws concerning slot machines, charitable drawings, game promotions, and amusement games.

As to charitable drawings, the bill clarifies the definition of a charitable drawing and specifically provides that compliance with the charitable drawing statute does not provide an exemption from other gambling prohibitions.

As to game promotions, the bill:

- Clarifies the definition of a "game promotion;"
- Clarifies that nonprofit organizations may not conduct game promotions; and
- Specifically provides that compliance with the game promotion statute provides an exemption from the lottery prohibition, but does not provide an exemption from other gambling prohibitions.

As to amusement games, the bill:

- Clarifies the meaning of "amusement games or machines;" and

- Clarifies that "merchandise" means non-cash prizes, specifically excluding gift cards or other cash equivalents.

As to slot machines, the bill:

- Updates the definition of slot machine to specifically include systems or networks of devices and to remove technologically obsolete criteria; and
- Provides a rebuttable presumption that machines used to simulate casino-style games in schemes involving consideration and prize are prohibited slot machines.

The bill is not anticipated to have a significant fiscal impact on state funds.

This bill substantially amends the following sections of the Florida Statutes: 849.0935, 849.094, 849.16, 849.161, and 895.02.

II. Present Situation:

In general, gambling is illegal in Florida.[1] Chapter 849, F.S., governs the conduct of gambling. Section 849.15, F.S., prohibits the manufacture, sale, lease, play, or possession of slot machines.[2] Florida's gambling prohibition includes prohibitions against keeping a gambling house,[3] and running a lottery.[4] Section 7, Art. X of the Florida Constitution prohibits lotteries, other than pari-mutuel pools authorized by law on the effective date of the Florida Constitution, from being conducted in Florida by private citizens.[5]

Gaming is permitted at licensed pari-mutuel wagering tracks and frontons[6] and by the state operated lottery,[7] which must operate "so as to maximize revenues in a manner consonant with the dignity of the state and the welfare of its citizens."[8]

Chapter 849, F.S., contains other specific exceptions to the general gambling prohibition and authorizes certain gambling activities, such as cardrooms at pari-mutuel facilities,[9] bingo,[10] penny-ante poker,[11] arcade amusement games,[12] amusement games and machines,[13] and game

---

[1] Section 849.08, F.S.
[2] Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.
[3] Section 849.01, F.S.
[4] Section 849.09, F.S.
[5] The pari-mutuel pools that were authorized by law on the effective date of the Florida Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.
[6] *See* ch. 550, F.S., for the regulation of pari-mutuel activities.
[7] The Department of the Lottery is authorized by s. 15, Art. X, Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., provides the legislative purpose and intent in regard to the lottery.
[8] *See* s. 24.104, F.S.
[9] Section 849.086, F.S. Section 849.086(2)(c), F.S., defines "cardroom" to mean a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charges a fee for participation by the operator of such facility.
[10] Section 849.0931, F.S.
[11] Section 849.085, F.S.
[12] Section 849.161(1)(a), F.S
[13] Section 849.161(1)(b), F.S.

promotions.[14] In Florida, if the gaming activity is not expressly authorized, then the gambling is illegal. Free-standing, commercial casinos are not authorized in Florida.

During the past several years, electronic sweepstakes establishments, generally called "Internet Cafés," have proliferated in Florida and other states. The facilities often use casino-style sweepstakes games to promote sales of communications services such as internet access or telephone calling cards. The operations are not regulated by the state and the games are not taxed.[15]

Law enforcement and local district attorneys have raised concerns about whether the use of an electronic simulated gaming machine in a game promotion is an illegal slot machine.

Chapter 849, F.S., prohibits slot machines[16] and gambling houses.[17] Slot machines are authorized at certain pari-mutuel facilities in Miami-Dade and Broward counties.[18] Slot machines are also permitted on tribal facilities covered by the Seminole Indian Compact.[19]

Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S., as:

> (1) Any machine or device is a slot machine or device within the provisions of this chapter if it is one that is adapted for use in such a way that, as a result of the insertion of any piece of money, coin, or other object, such machine or device is caused to operate or may be operated and if the user, by reason of any element of chance or of any other outcome of such operation unpredictable by him or her, may:
> (a) Receive or become entitled to receive any piece of money, credit, allowance, or thing of value, or any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value or which may be given in trade; or
> (b) Secure additional chances or rights to use such machine, apparatus, or device, even though it may, in addition to any element of chance or unpredictable outcome of such operation, also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.

Section 551.102(8), F.S., defines a slot machine to mean:

> any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token, or similar object or upon payment of any

---

[14] Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.
[15] The federal Internet Tax Freedom Act has imposed a moratorium on the taxation of internet access since 1998, and will be effective until 2014, if not renewed by Congress. Pub. L. 105-277, 112 Stat. 2681-719; *last renewed by* Pub. L. 110-108, 121 Stat. 1024-1026. Some operators may be subject to federal and state payroll and corporate income taxes.
[16] Section 849.15, F.S.
[17] Section 849.01, F.S.
[18] Article X, s. 23, Florida Constitution and ch. 551, F.S.
[19] *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida,* approved by the U.S. Department of the Interior effective July 6, 2010, 75 Fed. Reg. 128. Slot machines are authorized for all seven gaming facilities. The Tribe has three gaming facilities located in Broward County (The Seminole Indian Casinos at Coconut Creek and Hollywood, and the Seminole Hard Rock Hotel & Casino-Hollywood), and gaming facilities in Collier County (Seminole Indian Casino-Immokalee), Glades County (Seminole Indian Casino-Brighton), Hendry County (Seminole Indian Casino-Big Cypress), and Hillsborough County (Seminole Hard Rock Hotel & Casino-Tampa).

> consideration whatsoever, including the use of any electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine, or other device. Slot machines may use spinning reels, video displays, or both.

Generally, any machine or device is a slot machine if, as a result of the insertion of any object, the user, by any element of chance or unpredictability, may receive any thing of value.[20] According to the Florida Supreme Court, the unpredictability must "be inherent in the machine."[21]

Some authorities familiar with Florida's gambling laws have complained that prosecutions are difficult and costly, in part because of laws regulating charitable drawings, game promotions, and adult amusements are not as up-to-date and clear as they could be.

Charitable Drawings

The staff analysis for PCS for HB 155, relating to Prohibition of Electronic Gambling Devices, published by the House Select Committee on Gaming on March 14, 2013, describes charitable drawings under "Current Situation":

> Charities use drawings or raffles as a fundraising tool. Organizations suggest a donation, collect entries and randomly select an entry to win a prize.
>
> While Florida law prohibits lotteries,[22] an exemption is provided for qualified organizations to conduct drawings by chance, provided the organization has complied with all applicable provisions of ch. 496, F.S. Requiring a donation or any other consideration is prohibited.
>
> 'Drawing by chance' or 'drawing' is defined as an enterprise in which, from the entries submitted by the public to the organization conducting the drawing, one or more entries are selected by chance to win a prize. The statute excludes from the definition "those enterprises, commonly known as 'matching,' 'instant winner,' or 'preselected sweepstakes,' which involve the distribution of winning numbers, previously designated as such, to the public."
>
> 'Organization' is defined as "an organization which is exempt from federal income taxation pursuant to 26 U.S.C. s. 501(c)(3), (4), (7), (8), (10), or (19), and which has a current determination letter from the Internal Revenue Service, and its bona fide members or officers."

[20] Section 849.16, F.S.
[21] *Deeb v. Stoutamire*, 53 So.2d 873, 875 (Fla. 1951).
[22] Section 849.09, F.S.

> Violations of the statute are punishable as second-degree misdemeanors and deceptive and unfair trade practices.
>
> Because the game promotion statute excludes charitable nonprofit organizations, such organizations offering electronic game promotions sometimes claim to operate under the charitable drawings exemption. However, as noted, the charitable drawing statute seems to limit drawings to those conducted after the collection of entries, rather than a sweepstakes, where the winning ticket is determined before distribution.

Game Promotions

Prior to the 2012 Regular Session, the Regulated Industries Committee prepared an Interim Report 2012-137, titled "Review Internet Cafes Used for Electronic Game Promotions." It is published at http://flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-137ri.pdf, and it provides detailed background about game promotions.

The House Select Committee on Gaming staff analysis for PCS for HB 155, provides a succinct description of game promotions under "Current Situation":

> Businesses use game promotions as a marketing tool to promote their goods or services. Although game promotions generally require payment of money, the Florida Supreme Court has found that the game is a lottery, containing the three elements of consideration, chance and prize.[23]
>
> In *Little River Theatre Corp. v. State ex rel. Hodge*, the Florida Supreme Court adopted a view that any benefit to the game promoter constitutes consideration. Thus, even if players do not pay to participate in the game promotion, it is an illegal lottery.
>
> But while the patrons may not pay, and the respondents may not receive any direct consideration, there is an indirect consideration paid and received. The fact that prizes of more or less value are to be distributed will attract persons to the theaters who would not otherwise attend. In this manner those obtaining prizes pay consideration for them, and the theaters reap a direct financial benefit.[24]
>
> Since 1971, the games have been regulated by s. 849.094, F.S.[25] Game promotion' is defined by statute as a contest, game of chance, or gift enterprise, conducted within or throughout the state and other states in connection with the sale of consumer products or services, and in which the elements of chance and prize are present.
>
> The statute prohibits game promotions from requiring entry fees or proof of purchase to play, having predetermined winners, arbitrarily disqualifying entries, failing to award prizes, and advertising falsely.

---

[23] *Little River Theatre Corp. v. State ex rel. Hodge*, 135 Fla. 854 (1939).
[24] *Id.* at 866-867 (quoting *Sproat-Temple Theatre Corp. v. Colonial Theatrical Enterprise, Inc*., 276 Mich. 127, 130-131 (1936)).
[25] Sections 1-9, ch. 71-304, L.O.F.

If the total value of offered prizes exceeds $5,000, the operator must:

- File with Department of Agriculture and Consumer Services (DACS) a copy of the game rules and prizes seven days before the game promotion begins;
- Establish a trust account equal to the total retail value of the prizes; and
- File a list of winners of prizes exceeding $25 within 60 days.

"[T]he DACS is charged with processing and filing documents for game promotions. … the fact that their filing documents have been reviewed and found complete … does not mean that the promotion or game is legal and in compliance with the provisions of chapter 849, F.S."[26] The DACS expressly informs each operator that registers a game promotion that it takes no position on the validity, efficacy, advisability, or propriety of the game.[27]

Violations of the statute are punishable as second-degree misdemeanors. Persons violating the statute may also be liable for civil fines.

The statute does not apply to activities regulated by the Department of Business and Professional Regulation (DBPR) or bingo. Television or radio broadcasting companies licensed by the Federal Communications Commission are exempt from the statute's reporting requirements. The statute defines 'operator' to exclude charitable nonprofit organizations.

The DACS received its first game promotion filing for an electronic sweepstakes in 2006.[28] The following chart depicts the total number of game promotion filings the DACS processed in each of the last five fiscal years, how many of those were for electronic sweepstakes, and the revenues and costs associated with the department's regulation of game promotions.

Fiscal Year	Total Filings	*Electronic Filings*	Revenues	Expenditures	Net
2006-2007	2,708	*595*	$270,601	($393,170)	($122,569)
2007-2008	6,084	*2,019*	$605,252	($467,588)	$137,664
2008-2009	4,832	*1,200*	$483,300	($561,552)	($78,252)
2009-2010	4,107	*282*	$409,965	($513,793)	($103,828)
2010-2011	3,664	*14*	$363,350	($261,118)	$102,232

Adult Amusements

Prior to the 2009 Session, the Senate Regulated Industries Committee prepared Interim Report 2009-123, "Review of Electronic Gaming Exceptions for Adult Arcades and Game Promotions." It found:

[26] Fla. AGO 2007-48.
[27] Miriam Wilkinson & Eric Miller, Florida Game Promotions Statute: A Novel Application of an Exception to Florida's Prohibition on Gambling, 11 Gaming Law Rev 98, 98-99 (2007).
[28] *Id.* at 100.

In 1984, the provisions dealing with arcade amusement centers were removed from s. 849.16, F.S., and placed in a newly created s. 849.161, F.S.[29] The provisions relating to amusement games and machines at any retail dealer who operates a truck stop were added in 1996.[30]

Section 849.161(1)(a)1., F.S., provides that:

> Nothing contained in this chapter [ch. 849, F.S.] shall be taken or construed as applicable to an arcade amusement center having amusement games or machines which operate by means of the insertion of a coin and which by application of skill may entitle the person playing or operating the game or machine to receive points or coupons which may be exchanged for merchandise only, excluding cash and alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played.

Section 849.161(1)(a)2., F.S., provides that the provisions of ch. 849, F.S., shall not be taken or construed to apply to amusement games or machines located at "any retail dealer who operates as a truck stop, as defined in chapter 336[31] and which operates a minimum of 6 functional diesel fuel pumps." The machines at a truck stop may operate "by means of the insertion of a coin or other currency" and the points and coupons may be exchanged for "merchandise limited to noncash prizes, toys, novelties, and Florida Lottery products, excluding alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played."

An arcade amusement center must have at least 50 coin-operated amusement games or machines on the premises to qualify for this exception.[32] The provisions of s. 849.161(1), F.S., are not applicable to a coin-operated game or device that entitles a player, by application of skill, to replay the game at no additional cost and that can "accumulate and react to no more than 15 free replays; [that] can be discharged of accumulated free replays only by reactivating the game or device for one additional play for such accumulated free replay; [and that] can make no permanent record, directly or indirectly, of free replays."

The provisions of s. 849.161(1), F.S., do not apply to:

---

[29] *See* s. 2, ch. 84-247, L.O.F. This act attempted to place the arcade amusement center provisions in a newly created ch. 512, F.S. (as s. 512.01, F.S., the only section in the new chapter). The Division of Statutory Revision renumbered that section as s. 849.161, F.S.

[30] The provisions were added in three different sections in two different bills. *See* s. 159, ch. 96-320, and s. 79, ch. 96-323, L.O.F. Different provisions amending subparagraph (1)(a)2. and paragraph (1)(b) of s. 849.161, F.S., were also included in s. 69, ch. 96-323, L.O.F., and that version is noted in footnote 1 to s. 849.161, F.S.. For a description of multiple provisions in the same session affecting a statutory provision, see preface to the *Florida Statutes*, "Statutory Construction."

[31] Provisions referencing truck stops in ch. 336, F.S., was in s. 336.021(1)(c)3., F.S.; it was deleted by s. 15, ch. 97-54, L.O.F. Section 336.021(1)(c)3., F.S., provided, in part, that a "truck stop" is any retail dealer registered pursuant to chapter 212, excluding marinas, that has declared its primary fuel business to be the sale of diesel fuel."

[32] *See* s. 849.161(2), F.S.

> any game or device defined as a gambling device in 24 U.S.C. s. 1171, [sic][33] which requires identification of each device by permanently affixing seriatim numbering and name, trade name, and date of manufacture under s. 1173, and registration with the United States Attorney General, unless excluded from applicability of the chapter under s. 1178. This subsection shall not be construed to authorize video poker games or any other game or machine that may be construed as a gambling device under Florida law.

Several different types of establishments are operating under the exemption provided in s. 849.161, F.S. There are arcade amusement centers that cater predominantly to children. Chuck E. Cheese parlors are an example of this type of center. These centers cater to families with young children.[34] Tickets can be won at the games and redeemed for prizes on-site. Facilities known as "adult amusement centers" also operate under this section. Dave & Busters is an example of an adult amusement center that includes different types of games catering to adults.[35] These games include billiards, video games, and other games where tickets can be won and redeemed for prizes on-site. Dave & Busters also serves food and alcoholic beverages to its patrons. Electronic games are also located in truck stops that have six diesel pumps. Finally, electronic games are located at what are known as "senior arcade amusement centers." The Florida Bingo and Arcade Association represent 29 of these establishments in Florida.[36] According to the association, these arcades have been in operation since 1984. It also uses the term "penny arcades."[37]

Some electronic games resemble traditional slot machines but are equipped with a "skill stop button" that supposedly stops the game activity when engaged. The electronic games that resemble slot machines and use a "skill stop button" have caused concern in the law enforcement community that these games may be violating the gambling devices provisions in ch. 849, F.S.

The Florida Department of Law Enforcement (FDLE) addressed the Senate Regulated Industries Committee concerning some of these electronic games.[38] The department indicated that some adult arcades have operated in Florida without any rules, regulations, or industry norms. At issue is the use of particular types of gaming machines. The owners of adult arcade facilities, according to the department, have used vague interpretations of Florida gaming laws to open and operate what appear to be illegal gambling halls. The method of play in these adult arcades has created a grey area for enforcement and prosecution of illegal gambling across the state. The operators maintain that the devices in these adult arcades are legal under Florida law. They also maintain that the machines are not illegal gambling devices because they do not pay out in cash, they pay out only with merchandise in the form of gift cards, and operate by "application of skill" and not as games of chance.

---

[33] Title 24 of the United States Code relates to hospitals and asylums; chapter 24 of Title 15 of the United States Code relates to transportation of gambling devices.
[34] *See* http://www.chuckecheese.com/company-info (Last visited October 31, 2008).
[35] *See* http://www.daveandbusters.com/Misc/HousePolicies.aspx (Last visited October 31, 2008).
[36] *See* http://www.floridaarcadeassociation.com/members.htm (Last visited October 31, 2008).
[37] A penny arcade, according to the association, is an eight or nine line electronic machine where the play is a penny a line so that the maximum is eight or nine cents per play.
[38] Senate Regulated Industries Committee meeting, February 19, 2008.

III. Effect of Proposed Changes:

Section 1 of the bill provides findings and declarations of necessity:

(1) The Legislature declares that s. 849.01, F.S., specifically prohibits the keeping or maintaining of a place for the purpose of gambling or gaming.

(2) The Legislature finds that s. 849.0935, F.S., was enacted to allow specified charitable or nonprofit organizations the opportunity to raise funds to carry out their charitable or nonprofit purpose by conducting a raffle for prizes by eliminating the element of consideration and allowing the receipt of voluntary donations or contributions and was not intended to provide a vehicle for the establishment of places of gambling or gaming.

(3) The Legislature finds that s. 849.094, F.S., was enacted to regulate certain game promotions or sweepstakes conducted by for-profit commercial entities on a limited and occasional basis as an advertising and marketing tool and incidental to substantial bona fide sales of consumer products or services, if the element of consideration is removed as no purchase necessary and they comply with the requirements and rules specified by law, and was not intended to provide a vehicle for the establishment of places of ongoing gambling or gaming.

(4) The Legislature finds that s. 849.161, F.S., was enacted to regulate the operation of skill-based arcade games offered at specified arcade amusement centers and truck stops if they comply with the requirements of law and was not provided as a vehicle to conduct casino-style gambling.

(5) Therefore the Legislature finds that there is a compelling state interest in clarifying the operation and use of ss. 849.0935, 849.094, and 849.161, F.S., to ensure that a charitable drawing by chance, game promotion in connection with the sale of a consumer product or service, and arcade amusement games are not subject to abuse or interpreted in any manner as creating an exception to Florida's general prohibitions against gambling.

Section 2 of the bill amends s. 849.0935, F.S., relating to charitable drawings. It clarifies that the exceptions for charitable drawings does not include "game promotions" defined and regulated in s. 849.094, F.S., (electronic sweepstakes or Internet cafes). The bill also clarifies that the exceptions for charitable drawings does not provide exemptions from prohibitions against:

- Keeping a gaming table, room, implements, apparatus, house, or other place, as described in s. 849.01, F.S., (gaming place);
- Manufacture, sale, transportation, or possession of any slot machine, as provided in s. 849.15, F.S., (slot machines); or
- Any other law.

Section 3 of the bill amends s. 849.094, F.S., relating to game promotions. It clarifies that the exception is only for game promotions that are <u>incidental to</u> the sale of consumer products or services. If further clarifies that the exemption relates only to the lottery prohibition in s. 849.09, F.S., and not to general prohibitions under Florida law against keeping a gaming place or slot machines.

The bill clarifies that nonprofit organizations defined in s. 849.0935, F.S., may not operate a game promotion. It also provides that complying with DACS rules does not excuse violations of law and that violation of the game promotion statute is a deceptive and unfair trade practice.

Section 4 updates the definition of slot machine or device in s. 849.16, F.S. It provides that a device is a slot machine:

- Whether or not it is operated by the insertion of a coin, money or object as well as account number code or other information;
- Whether it is a standalone device of or a system or network of devices;
- Whether it is directly or indirectly operated;
- Whether its outcome relies on skill or chance; and
- Whether or not it is available for free play.

The bill also clarifies that the definition of slot machines in ch. 849, F.S., included but is not limited to the definition in ch. 551, F.S.

The bill creates a rebuttable presumption that a device is a prohibited slot machine if it simulates games of chance and is part of a scheme requiring consideration and awarding any thing of value.

Section 5 clarifies applicability of the exemption for amusement games or machines. It provides that "amusement games or machines" do not include:

- Casino-style games in which the outcome is determined by factors unpredictable by the player; or
- Games in which the player may not control the outcome of the game through skill.

It defines "game played" such that the cost value of points or coupons awarded (which cannot exceed 75 cents per play) is increased only by the player paying an additional amount. Free replays do not add to the cost value.

It clarifies that "merchandise" means non-cash prizes and does not allow awarding of gift cards, gift certificates, or other cash equivalents.

It consolidates similar language relating to amusement arcades and truck stops, and it updates the definition of "truck stop" to correct a cross-reference.

Section 6 amends the definition of "racketeering activity" in s. 895.02, F.S., to include any violation of ch. 849, F.S., including not only gambling, but also lottery, gaming devices, slot machines, or any other provision.

Section 7 amends s. 721.111, F.S., relating to promotional offers to conform cross-references.

Sections 8 through 13 reenact ss. 16.56, 338.234(1), 655.50(3)(g), 849.19, 896.101(2)(g), 905.34(3), F.S., relating to the Office of the Statewide Prosecutor, Florida Turnpike, money

laundering, the seizure of property, the Florida Money Laundering Act, and a statewide grand jury, respectively, to incorporate changes made by the act in references.

Section 14 provides the bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Establishments offering devices in connection with game promotions will no longer be able to do so. To the extent that offering the games increased the profitability of their underlying products or services, they could see reduction in sales.

C. Government Sector Impact:

The bill is not anticipated to have a significant fiscal impact on state funds. The bill clarifies existing prohibitions on gambling and creates a rebuttable presumption that certain devices are slot machines. This may reduce the complexity and cost of local enforcement actions. Local governments that have authorized the use of devices in connection with game promotions or charitable drawings subject to local taxation will no longer be able to collect such taxes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Committee on Gaming on March 18, 2013:
The committee substitute adds findings and provisions to clarify current laws regarding slot machines, charitable drawings, game promotions, and amusement games. The committee substitute removes provisions that:

- Provided that an operator who was using a sweepstakes device on or before July 1, 2013 and who files an affidavit may continue to operate the sweepstakes device;
- Provided that any current permit issued to the operator by a county or municipality shall be renewed upon expiration; and
- Provided that a new operator, after July 1, 2013, may not use a sweepstakes device or be issued a local permit.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Gaming; and Senators Thrasher and Bradley

584-02571-13 20131030c1

A bill to be entitled

An act relating to the prohibition of electronic gambling devices; providing legislative findings and a declaration of intent and construction; amending s. 849.0935, F.S., relating to drawings by chance offered by nonprofit organizations; revising the definition of the term "drawing by chance" to include the term "raffle" within the meaning of the term and exclude the term "game promotions"; revising conditions for exceptions to prohibitions on lotteries; prohibiting the use of certain devices operated by drawing entrants; providing penalties; amending s. 849.094, F.S., relating to game promotions in connection with sale of consumer products or services; defining the term "department" as the Department of Agriculture and Consumer Services; revising definitions; prohibiting specified nonprofit organizations from operating a game promotion; providing conditions for exceptions to prohibitions on lotteries; prohibiting the use of certain devices operated by game promotion entrants; revising procedures for operation of a game promotion; providing for construction; providing that violations are deceptive and unfair trade practices; revising applicability provisions; amending s. 849.16, F.S.; defining the term "slot machine or device" for purposes of specified gambling provisions; providing a rebuttable presumption that a device, system, or network is a prohibited slot machine; amending s. 849.161, F.S.; providing definitions; revising and

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

584-02571-13 20131030c1

clarifying provisions relating to amusement games and machines; amending s. 895.02, F.S.; revising the definition of the term "racketeering activity" to include violations of specified provisions; amending s. 721.111, F.S., relating to promotional offers; conforming cross-references; reenacting ss. 16.56(1)(a), 338.234(1), 655.50(3)(g), 849.19, 896.101(2)(g), and 905.34(3), F.S., relating to the Office of Statewide Prosecution, the Florida Turnpike, money laundering, seizure of property, the Florida Money Laundering Act, and a statewide grand jury, respectively, to incorporate changes made by the act in references thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Findings and declarations of necessity.—

(1) The Legislature declares that s. 849.01, Florida Statutes, specifically prohibits the keeping or maintaining of a place for the purpose of gambling or gaming.

(2) The Legislature finds that s. 849.0935, Florida Statutes, was enacted to allow specified charitable or nonprofit organizations the opportunity to raise funds to carry out their charitable or nonprofit purpose by conducting a raffle for prizes by eliminating the element of consideration and allowing the receipt of voluntary donations or contributions and was not intended to provide a vehicle for the establishment of places of gambling or gaming.

(3) The Legislature finds that s. 849.094, Florida

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

59 Statutes, was enacted to regulate certain game promotions or
60 sweepstakes conducted by for-profit commercial entities on a
61 limited and occasional basis as an advertising and marketing
62 tool and incidental to substantial bona fide sales of consumer
63 products or services, if the element of consideration is removed
64 as no purchase necessary and they comply with the requirements
65 and rules specified by law, and was not intended to provide a
66 vehicle for the establishment of places of ongoing gambling or
67 gaming.
68 (4) The Legislature finds that s. 849.161, Florida
69 Statutes, was enacted to regulate the operation of skill-based
70 arcade games offered at specified arcade amusement centers and
71 truck stops if they comply with the requirements of law and was
72 not provided as a vehicle to conduct casino-style gambling.
73 (5) Therefore the Legislature finds that there is a
74 compelling state interest in clarifying the operation and use of
75 ss. 849.0935, 849.094, and 849.161, Florida Statutes, to ensure
76 that a charitable drawing by chance, game promotion in
77 connection with the sale of a consumer product or service, and
78 arcade amusement games are not subject to abuse or interpreted
79 in any manner as creating an exception to Florida's general
80 prohibitions against gambling.
81 Section 2. Paragraph (a) of subsection (1) and subsections
82 (2), (4), and (7) of section 849.0935, Florida Statutes, are
83 amended to read:
84 849.0935 Charitable, nonprofit organizations; drawings by
85 chance; required disclosures; unlawful acts and practices;
86 penalties.—
87 (1) As used in this section, the term:

88 (a) "Drawing by chance," ~~or~~ "drawing," or "raffle" means an
89 enterprise in which, from the entries submitted by the public to
90 the organization conducting the drawing, one or more entries are
91 selected by chance to win a prize. The term "drawing" does not
92 include those enterprises, commonly known as "game promotions,"
93 as defined by s. 849.094, "matching," "instant winner," or
94 "preselected sweepstakes," which involve the distribution of
95 winning numbers, previously designated as such, to the public.
96 (2) Section ~~The provisions of s.~~ 849.09 does ~~shall~~ not ~~be~~
97 ~~construed to~~ prohibit an organization ~~qualified under 26 U.S.C.~~
98 ~~s. 501(c)(3), (4), (7), (8), (10), or (19)~~ from conducting
99 drawings by chance pursuant to the authority granted by this
100 section, if ~~provided~~ the organization has complied with all
101 applicable provisions of chapter 496 and this section. Authority
102 to conduct drawings by chance pursuant to this section does not
103 provide an exemption to s. 849.01, s. 849.15, or any other law.
104 (4) It is unlawful for any organization that ~~which~~,
105 pursuant to the authority granted by this section, promotes,
106 operates, or conducts a drawing by chance:
107 (a) To design, engage in, promote, or conduct any drawing
108 in which the winner is predetermined by means of matching,
109 instant win, or preselected sweepstakes or otherwise or in which
110 the selection of the winners is in any way rigged;
111 (b) To require an entry fee, donation, substantial
112 consideration, payment, proof of purchase, or contribution as a
113 condition of entering the drawing or of being selected to win a
114 prize. However, this paragraph does ~~provision shall~~ not prohibit
115 an organization from suggesting a minimum donation or from
116 including a statement of such suggested minimum donation on any

117 printed material used ~~utilized~~ in connection with the
118 fundraising event or drawing;
119 (c) To condition the drawing on a minimum number of tickets
120 having been disbursed to contributors or on a minimum amount of
121 contributions having been received;
122 (d) To arbitrarily remove, disqualify, disallow, or reject
123 any entry or to discriminate in any manner between entrants who
124 gave contributions to the organization and those who did not
125 give such contributions;
126 (e) To fail to promptly notify, at the address set forth on
127 the entry blank, any person~~,~~ whose entry is selected to win~~,~~ of
128 the fact that he or she won;
129 (f) To fail to award all prizes offered;
130 (g) To print, publish, or circulate literature or
131 advertising material used in connection with the drawing which
132 is false, deceptive, or misleading;
133 (h) To cancel a drawing; ~~or~~
134 (i) To condition the acquisition or giveaway of any prize
135 upon the receipt of voluntary donations or contributions; or~~.~~
136 (7) Any organization which engages in any act or practice
137 in violation of this section is guilty of a misdemeanor of the
138 second degree, punishable as provided in s. 775.082 or s.
139 775.083. However, Any organization or other person who sells or
140 offers for sale in this state a ticket or entry blank for a
141 raffle or other drawing by chance, without complying with the
142 requirements of paragraph (3)(d), commits ~~is guilty of~~ a
143 misdemeanor of the second degree, punishable by fine only as
144 provided in s. 775.083.
145 Section 3. Section 849.094, Florida Statutes, is amended to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

146 read:
147 849.094 Game promotion in connection with sale of consumer
148 products or services.—
149 (1) As used in this section, the term:
150 (a) "Department" means the Department of Agriculture and
151 Consumer Services.
152 (b) ~~(a)~~ "Game promotion" means, but is not limited to, a
153 contest, game of chance, sweepstakes, or gift enterprise,
154 conducted by an operator within or throughout the state and
155 other states in connection with and incidental to the sale of
156 consumer products or services, and in which the elements of
157 chance and prize are present. However, "game promotion" may
158 ~~shall~~ not be construed to apply to bingo games conducted
159 pursuant to s. 849.0931.
160 (c) ~~(b)~~ "Operator" means any person, firm, corporation,
161 enterprise, organization, or association or agent or employee
162 thereof who promotes, operates, or conducts a game promotion~~,~~
163 ~~except any charitable nonprofit organization~~.
164 (2) Section 849.09 does not prohibit an operator from
165 conducting a game promotion pursuant to this section, if the
166 operator has complied with this section. Authority to conduct
167 game promotions pursuant to this section does not provide an
168 exemption to s. 849.01, s. 849.15, or any other law.
169 (3) An organization as defined in s. 849.0935 may not
170 operate a game promotion.
171 (4) ~~(2)~~ It is unlawful for any operator:
172 (a) To design, engage in, promote, or conduct such a game
173 promotion, in connection with the promotion or sale of consumer
174 products or services, wherein the winner may be predetermined or

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

175 the game may be manipulated or rigged so as to:
176 1. Allocate a winning game or any portion thereof to
177 certain lessees, agents, or franchises; or
178 2. Allocate a winning game or part thereof to a particular
179 period of the game promotion or to a particular geographic area;
180 (b) Arbitrarily to remove, disqualify, disallow, or reject
181 any entry;
182 (c) To fail to award prizes offered;
183 (d) To print, publish, or circulate literature or
184 advertising material used in connection with such game
185 promotions which is false, deceptive, or misleading; or
186 (e) To require an entry fee, payment, or proof of purchase
187 as a condition of entering a game promotion.
188 (5) ~~(3)~~ The operator of a game promotion in which the total
189 announced value of the prizes offered is greater than $5,000
190 shall file with the department ~~of Agriculture and Consumer~~
191 ~~Services~~ a copy of the rules and regulations of the game
192 promotion and a list of all prizes and prize categories offered
193 at least 7 days before the commencement of the game promotion.
194 Such rules and regulations may not thereafter be changed,
195 modified, or altered. The operator of a game promotion shall
196 conspicuously post the rules and regulations of such game
197 promotion in each and every retail outlet or place where such
198 game promotion may be played or participated in by the public
199 and shall also publish the rules and regulations in all
200 advertising copy used in connection therewith. However, such
201 advertising copy need only include the material terms of the
202 rules and regulations if the advertising copy includes a website
203 address, a toll-free telephone number, or a mailing address

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

204 where the full rules and regulations may be viewed, heard, or
205 obtained for the full duration of the game promotion. Such
206 disclosures must be legible. Radio and television announcements
207 may indicate that the rules and regulations are available at
208 retail outlets or from the operator of the promotion. A
209 nonrefundable filing fee of $100 shall accompany each filing and
210 shall be used to pay the costs incurred in administering and
211 enforcing the provisions of this section.
212 (6) ~~(4)~~(a) Every operator of such a game promotion in which
213 the total announced value of the prizes offered is greater than
214 $5,000 shall establish a trust account, in a national or state-
215 chartered financial institution, with a balance sufficient to
216 pay or purchase the total value of all prizes offered. On a form
217 supplied by the department ~~of Agriculture and Consumer Services~~,
218 an official of the financial institution holding the trust
219 account shall set forth the dollar amount of the trust account,
220 the identity of the entity or individual establishing the trust
221 account, and the name of the game promotion for which the trust
222 account has been established. Such form shall be filed with the
223 department ~~of Agriculture and Consumer Services~~ at least 7 days
224 in advance of the commencement of the game promotion. In lieu of
225 establishing such trust account, the operator may obtain a
226 surety bond in an amount equivalent to the total value of all
227 prizes offered; and such bond shall be filed with the department
228 ~~of Agriculture and Consumer Services~~ at least 7 days in advance
229 of the commencement of the game promotion.
230 1. The moneys held in the trust account may be withdrawn in
231 order to pay the prizes offered only upon certification to the
232 department ~~of Agriculture and Consumer Services~~ of the name of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

the winner or winners and the amount of the prize or prizes and the value thereof.

2. If the operator of a game promotion has obtained a surety bond in lieu of establishing a trust account, the amount of the surety bond shall equal at all times the total amount of the prizes offered.

(b) The department ~~of Agriculture and Consumer Services~~ may waive the provisions of this subsection for any operator who has conducted game promotions in the state for not less than 5 consecutive years and who has not had any civil, criminal, or administrative action instituted against him or her by the state or an agency of the state for violation of this section within that 5-year period. Such waiver may be revoked upon the commission of a violation of this section by such operator, as determined by the department ~~of Agriculture and Consumer Services~~.

(7) ~~(5)~~ Every operator of a game promotion in which the total announced value of the prizes offered is greater than $5,000 shall provide the department ~~of Agriculture and Consumer Services~~ with a certified list of the names and addresses of all persons, whether from this state or from another state, who have won prizes which have a value of more than $25, the value of such prizes, and the dates when the prizes were won within 60 days after such winners have been finally determined. The operator shall provide a copy of the list of winners, without charge, to any person who requests it. In lieu of the foregoing, the operator of a game promotion may, at his or her option, publish the same information about the winners in a Florida newspaper of general circulation within 60 days after such

winners have been determined and shall provide to the department ~~of Agriculture and Consumer Services~~ a certified copy of the publication containing the information about the winners. The operator of a game promotion is not required to notify a winner by mail or by telephone when the winner is already in possession of a game card from which the winner can determine that he or she has won a designated prize. All winning entries shall be held by the operator for a period of 90 days after the close or completion of the game.

(8) ~~(6)~~ The department ~~of Agriculture and Consumer Services~~ shall keep the certified list of winners for a period of at least 6 months after receipt of the certified list. The department thereafter may dispose of all records and lists.

(9) ~~(7)~~ An ~~No~~ operator may not ~~shall~~ force, directly or indirectly, a lessee, agent, or franchise dealer to purchase or participate in any game promotion. For the purpose of this section, coercion or force is ~~shall be~~ presumed in these circumstances in which a course of business extending ~~over a period of~~ 1 year or more ~~longer~~ is materially changed coincident with a failure or refusal of a lessee, agent, or franchise dealer to participate in such game promotions. Such force or coercion is ~~shall further be~~ presumed when an operator advertises generally that game promotions are available at its lessee dealers or agent dealers.

(10) ~~(8)~~ (a) The department may adopt ~~of Agriculture and Consumer Services shall have the power to promulgate~~ such rules and regulations respecting the operation of game promotions as it deems ~~may deem~~ advisable.

(b) Compliance with the rules of the department does not

291 authorize and is not a defense to a charge of possession of a
292 slot machine or device or any other device or a violation of any
293 other law.
294 (c)~~(b)~~ Whenever the department ~~of Agriculture and Consumer~~
295 ~~Services~~ or the Department of Legal Affairs has reason to
296 believe that a game promotion is being operated in violation of
297 this section, it may bring an action in the circuit court of any
298 judicial circuit in which the game promotion is being operated
299 in the name and on behalf of the people of the state against any
300 operator thereof to enjoin the continued operation of such game
301 promotion anywhere within the state.
302 (11)~~(9)~~(a) Any person, firm, or corporation, or association
303 or agent or employee thereof, who engages in any acts or
304 practices stated in this section to be unlawful, or who violates
305 any of the rules and regulations made pursuant to this section,
306 commits ~~is guilty of~~ a misdemeanor of the second degree,
307 punishable as provided in s. 775.082 or s. 775.083.
308 (b) Any person, firm, corporation, association, agent, or
309 employee who violates any provision of this section or any of
310 the rules and regulations made pursuant to this section shall be
311 liable for a civil penalty of not more than $1,000 for each such
312 violation, which shall accrue to the state and may be recovered
313 in a civil action brought by the department ~~of Agriculture and~~
314 ~~Consumer Services~~ or the Department of Legal Affairs.
315 (12) A violation of this section, or soliciting another to
316 do an act that violates this section, constitutes a deceptive
317 and unfair trade practice actionable under the Florida Deceptive
318 and Unfair Trade Practices Act.
319 (13)~~(10) This section does not apply to actions or~~

320 ~~transactions regulated by the Department of Business and~~
321 ~~Professional Regulation or to the activities of nonprofit~~
322 ~~organizations or to any other organization engaged in any~~
323 ~~enterprise other than the sale of consumer products or services.~~
324 Subsections ~~(3), (4),~~ (5), (6), ~~and~~ (7), (8), and (9) and
325 paragraph (10)(a) ~~(8)(a)~~ and any of the rules made pursuant
326 thereto do not apply to television or radio broadcasting
327 companies licensed by the Federal Communications Commission.
328 Section 4. Section 849.16, Florida Statutes, is amended to
329 read:
330 849.16 Machines or devices which come within provisions of
331 law defined.—
332 (1) As used in this chapter, the term "slot machine or
333 device" means any machine or device or system or network of
334 devices ~~is a slot machine or device within the provisions of~~
335 ~~this chapter if it is one~~ that is adapted for use in such a way
336 that, upon activation, which may be achieved by, but is not
337 limited to, ~~as a result of~~ the insertion of any piece of money,
338 coin, account number, code, or other object or information, such
339 ~~machine or~~ device or system is directly or indirectly caused to
340 operate or may be operated and if the user, whether by
341 application of skill or by reason of any element of chance or ~~of~~
342 any other outcome ~~of such operation~~ unpredictable by the user
343 ~~him or her~~, may:
344 (a) Receive or become entitled to receive any piece of
345 money, credit, allowance, or thing of value, or any check, slug,
346 token, or memorandum, whether of value or otherwise, which may
347 be exchanged for any money, credit, allowance, or thing of value
348 or which may be given in trade; or

349 (b) Secure additional chances or rights to use such
350 machine, apparatus, or device, even though the device or system
351 ~~it~~ may be available for free play or, in addition to any element
352 of chance or unpredictable outcome of such operation, may also
353 sell, deliver, or present some merchandise, indication of
354 weight, entertainment, or other thing of value.
355
356 The term "slot machine or device" includes, but is not limited
357 to, devices regulated as slot machines pursuant to chapter 551.
358 (2) ~~Nothing contained in~~ This chapter may not ~~shall~~ be
359 construed, interpreted, or applied to the possession of a
360 reverse vending machine. As used in this section, the term ~~a~~
361 "reverse vending machine" means ~~is~~ a machine into which empty
362 beverage containers are deposited for recycling and which
363 provides a payment of money, merchandise, vouchers, or other
364 incentives. At a frequency less than upon the deposit of each
365 beverage container, a reverse vending machine may pay out a
366 random incentive bonus greater than that guaranteed payment in
367 the form of money, merchandise, vouchers, or other incentives.
368 The deposit of any empty beverage container into a reverse
369 vending machine does not constitute consideration, and ~~nor shall~~
370 a reverse vending machine may not be deemed ~~to be~~ a slot machine
371 as defined in ~~within~~ this section.
372 (3) There is a rebuttable presumption that a device,
373 system, or network is a prohibited slot machine or device if it
374 is used to display images of games of chance and is part of a
375 scheme involving any payment or donation of money or its
376 equivalent and awarding anything of value.
377 Section 5. Section 849.161, Florida Statutes, is amended to

378 read:
379 849.161 Amusement games or machines; when chapter
380 inapplicable.—
381 (1) As used in this section, the term:
382 (a) "Amusement games or machines" means games that operate
383 by means of the insertion of a coin and that by application of
384 skill may entitle the person playing or operating the game or
385 machine to receive points or coupons, the cost value of which
386 does not exceed 75 cents on any game played, which may be
387 exchanged for merchandise. The term does not include casino-
388 style games in which the outcome is determined by factors
389 unpredictable by the player or games in which the player may not
390 control the outcome of the game through skill.
391 (b) "Arcade amusement center" means a place of business
392 having at least 50 coin-operated amusement games or machines on
393 premises which are operated for the entertainment of the general
394 public and tourists as a bona fide amusement facility.
395 (c) "Game played" means the event occurring from the
396 initial activation of the machine until the results of play are
397 determined without payment of additional consideration. Free
398 replays do not constitute additional consideration.
399 (d) "Merchandise" means noncash prizes, including toys and
400 novelties. The term does not include cash or any equivalent
401 thereof, including gift cards or certificates, or alcoholic
402 beverages.
403 (e) "Truck stop" means a dealer registered pursuant to
404 chapter 212, excluding a marina, which:
405 1. Declared its primary fuel business to be the sale of
406 diesel fuel;

2. Operates a minimum of six functional diesel fuel pumps; and

3. Has coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists as bona fide amusement games or machines.

(2)~~(1)(a)1.~~ Nothing contained in this chapter shall be taken or construed to prohibit ~~as applicable to~~ an arcade amusement center or truck stop from operating ~~having~~ amusement games or machines in conformance with this section ~~which operate by means of the insertion of a coin and which by application of skill may entitle the person playing or operating the game or machine to receive points or coupons which may be exchanged for merchandise only, excluding cash and alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played~~.

~~2. Nothing contained in this chapter shall be taken or construed as applicable to any retail dealer who operates as a truck stop, as defined in chapter 336 and which operates a minimum of 6 functional diesel fuel pumps, having amusement games or machines which operate by means of the insertion of a coin or other currency and which by application of skill may entitle the person playing or operating the game or machine to receive points or coupons which may be exchanged for merchandise limited to noncash prizes, toys, novelties, and Florida Lottery products, excluding alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons does not exceed 75 cents on any game played.~~

(3) This section ~~subparagraph~~ applies only to games and

machines that ~~which~~ are operated for the entertainment of the general public and tourists as bona fide amusement games or machines.

(4) This section may ~~subsection shall~~ not be construed to authorize ~~apply, however, to~~ any game or device defined as a gambling device in 15 ~~24~~ U.S.C. s. 1171, which requires identification of each device by permanently affixing seriatim numbering and name, trade name, and date of manufacture under s. 1173, and registration with the United States Attorney General, unless excluded from applicability of the chapter under s. 1178, or~~. this subsection shall not be construed to authorize~~ video poker games or any other game or machine that may be construed as a gambling device under Florida law.

(5)~~(b)~~ This section does not apply ~~Nothing in this subsection shall be taken or construed as applicable~~ to a coin-operated game or device designed and manufactured only for bona fide amusement purposes which game or device may by application of skill entitle the player to replay the game or device at no additional cost, if the game or device: can accumulate and react to no more than 15 free replays; can be discharged of accumulated free replays only by reactivating the game or device for one additional play for such accumulated free replay; can make no permanent record, directly or indirectly, of free replays; and is not classified by the United States as a gambling device in 15 ~~24~~ U.S.C. s. 1171, which requires identification of each device by permanently affixing seriatim numbering and name, trade name, and date of manufacture under s. 1173, and registration with the United States Attorney General, unless excluded from applicability of the chapter under s. 1178.

465 This subsection shall not be construed to authorize video poker
466 games, or any other game or machine that may be construed as a
467 gambling device under Florida law.
468 ~~(2) The term "arcade amusement center" as used in this~~
469 ~~section means a place of business having at least 50 coin-~~
470 ~~operated amusement games or machines on premises which are~~
471 ~~operated for the entertainment of the general public and~~
472 ~~tourists as a bona fide amusement facility.~~
473 Section 6. Paragraph (a) of subsection (1) of section
474 895.02, Florida Statutes, is amended to read:
475 895.02 Definitions.—As used in ss. 895.01-895.08, the term:
476 (1) "Racketeering activity" means to commit, to attempt to
477 commit, to conspire to commit, or to solicit, coerce, or
478 intimidate another person to commit:
479 (a) Any crime that is chargeable by petition, indictment,
480 or information under the following provisions of the Florida
481 Statutes:
482 1. Section 210.18, relating to evasion of payment of
483 cigarette taxes.
484 2. Section 316.1935, relating to fleeing or attempting to
485 elude a law enforcement officer and aggravated fleeing or
486 eluding.
487 3. Section 403.727(3)(b), relating to environmental
488 control.
489 4. Section 409.920 or s. 409.9201, relating to Medicaid
490 fraud.
491 5. Section 414.39, relating to public assistance fraud.
492 6. Section 440.105 or s. 440.106, relating to workers'
493 compensation.

494 7. Section 443.071(4), relating to creation of a fictitious
495 employer scheme to commit reemployment assistance fraud.
496 8. Section 465.0161, relating to distribution of medicinal
497 drugs without a permit as an Internet pharmacy.
498 9. Section 499.0051, relating to crimes involving
499 contraband and adulterated drugs.
500 10. Part IV of chapter 501, relating to telemarketing.
501 11. Chapter 517, relating to sale of securities and
502 investor protection.
503 12. Section 550.235 or s. 550.3551, relating to dogracing
504 and horseracing.
505 13. Chapter 550, relating to jai alai frontons.
506 14. Section 551.109, relating to slot machine gaming.
507 15. Chapter 552, relating to the manufacture, distribution,
508 and use of explosives.
509 16. Chapter 560, relating to money transmitters, if the
510 violation is punishable as a felony.
511 17. Chapter 562, relating to beverage law enforcement.
512 18. Section 624.401, relating to transacting insurance
513 without a certificate of authority, s. 624.437(4)(c)1., relating
514 to operating an unauthorized multiple-employer welfare
515 arrangement, or s. 626.902(1)(b), relating to representing or
516 aiding an unauthorized insurer.
517 19. Section 655.50, relating to reports of currency
518 transactions, when such violation is punishable as a felony.
519 20. Chapter 687, relating to interest and usurious
520 practices.
521 21. Section 721.08, s. 721.09, or s. 721.13, relating to
522 real estate timeshare plans.

523 22. Section 775.13(5)(b), relating to registration of
524 persons found to have committed any offense for the purpose of
525 benefiting, promoting, or furthering the interests of a criminal
526 gang.
527 23. Section 777.03, relating to commission of crimes by
528 accessories after the fact.
529 24. Chapter 782, relating to homicide.
530 25. Chapter 784, relating to assault and battery.
531 26. Chapter 787, relating to kidnapping or human
532 trafficking.
533 27. Chapter 790, relating to weapons and firearms.
534 28. Chapter 794, relating to sexual battery, but only if
535 such crime was committed with the intent to benefit, promote, or
536 further the interests of a criminal gang, or for the purpose of
537 increasing a criminal gang member's own standing or position
538 within a criminal gang.
539 29. Section 796.03, s. 796.035, s. 796.04, s. 796.05, or s.
540 796.07, relating to prostitution and sex trafficking.
541 30. Chapter 806, relating to arson and criminal mischief.
542 31. Chapter 810, relating to burglary and trespass.
543 32. Chapter 812, relating to theft, robbery, and related
544 crimes.
545 33. Chapter 815, relating to computer-related crimes.
546 34. Chapter 817, relating to fraudulent practices, false
547 pretenses, fraud generally, and credit card crimes.
548 35. Chapter 825, relating to abuse, neglect, or
549 exploitation of an elderly person or disabled adult.
550 36. Section 827.071, relating to commercial sexual
551 exploitation of children.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

552 37. Chapter 831, relating to forgery and counterfeiting.
553 38. Chapter 832, relating to issuance of worthless checks
554 and drafts.
555 39. Section 836.05, relating to extortion.
556 40. Chapter 837, relating to perjury.
557 41. Chapter 838, relating to bribery and misuse of public
558 office.
559 42. Chapter 843, relating to obstruction of justice.
560 43. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
561 s. 847.07, relating to obscene literature and profanity.
562 44. Chapter 849 ~~Section 849.09, s. 849.14, s. 849.15, s.~~
563 ~~849.23, or s. 849.25~~, relating to gambling, lottery, gambling or
564 gaming devices, slot machines, or any of the provisions within
565 that chapter.
566 45. Chapter 874, relating to criminal gangs.
567 46. Chapter 893, relating to drug abuse prevention and
568 control.
569 47. Chapter 896, relating to offenses related to financial
570 transactions.
571 48. Sections 914.22 and 914.23, relating to tampering with
572 or harassing a witness, victim, or informant, and retaliation
573 against a witness, victim, or informant.
574 49. Sections 918.12 and 918.13, relating to tampering with
575 jurors and evidence.
576 Section 7. Subsection (2) of section 721.111, Florida
577 Statutes, is amended to read:
578 721.111 Prize and gift promotional offers.—
579 (2) A game promotion, such as a contest of chance, gift
580 enterprise, or sweepstakes, in which the elements of chance and

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

581 prize are present may not be used in connection with the
582 offering or sale of timeshare interests, except for drawings, as
583 that term is defined in s. 849.0935(1)(a), in which no more than
584 26 prizes are promoted and in which all promoted prizes are
585 actually awarded. All such drawings must meet all requirements
586 of this chapter and of ss. 849.092 and 849.094(1), (4) ~~(2)~~, and
587 (9) ~~(7)~~.
588 Section 8. For the purpose of incorporating the amendment
589 made by this act to section 895.02, Florida Statutes, in a
590 reference thereto, paragraph (a) of subsection (1) of section
591 16.56, Florida Statutes, is reenacted to read:
592 16.56 Office of Statewide Prosecution.—
593 (1) There is created in the Department of Legal Affairs an
594 Office of Statewide Prosecution. The office shall be a separate
595 "budget entity" as that term is defined in chapter 216. The
596 office may:
597 (a) Investigate and prosecute the offenses of:
598 1. Bribery, burglary, criminal usury, extortion, gambling,
599 kidnapping, larceny, murder, prostitution, perjury, robbery,
600 carjacking, and home-invasion robbery;
601 2. Any crime involving narcotic or other dangerous drugs;
602 3. Any violation of the provisions of the Florida RICO
603 (Racketeer Influenced and Corrupt Organization) Act, including
604 any offense listed in the definition of racketeering activity in
605 s. 895.02(1)(a), providing such listed offense is investigated
606 in connection with a violation of s. 895.03 and is charged in a
607 separate count of an information or indictment containing a
608 count charging a violation of s. 895.03, the prosecution of
609 which listed offense may continue independently if the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

610 prosecution of the violation of s. 895.03 is terminated for any
611 reason;
612 4. Any violation of the provisions of the Florida Anti-
613 Fencing Act;
614 5. Any violation of the provisions of the Florida Antitrust
615 Act of 1980, as amended;
616 6. Any crime involving, or resulting in, fraud or deceit
617 upon any person;
618 7. Any violation of s. 847.0135, relating to computer
619 pornography and child exploitation prevention, or any offense
620 related to a violation of s. 847.0135 or any violation of
621 chapter 827 where the crime is facilitated by or connected to
622 the use of the Internet or any device capable of electronic data
623 storage or transmission;
624 8. Any violation of the provisions of chapter 815;
625 9. Any criminal violation of part I of chapter 499;
626 10. Any violation of the provisions of the Florida Motor
627 Fuel Tax Relief Act of 2004;
628 11. Any criminal violation of s. 409.920 or s. 409.9201;
629 12. Any crime involving voter registration, voting, or
630 candidate or issue petition activities;
631 13. Any criminal violation of the Florida Money Laundering
632 Act;
633 14. Any criminal violation of the Florida Securities and
634 Investor Protection Act; or
635 15. Any violation of the provisions of chapter 787, as well
636 as any and all offenses related to a violation of the provisions
637 of chapter 787;
638

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

639 or any attempt, solicitation, or conspiracy to commit any of the
640 crimes specifically enumerated above. The office shall have such
641 power only when any such offense is occurring, or has occurred,
642 in two or more judicial circuits as part of a related
643 transaction, or when any such offense is connected with an
644 organized criminal conspiracy affecting two or more judicial
645 circuits. Informations or indictments charging such offenses
646 shall contain general allegations stating the judicial circuits
647 and counties in which crimes are alleged to have occurred or the
648 judicial circuits and counties in which crimes affecting such
649 circuits or counties are alleged to have been connected with an
650 organized criminal conspiracy.
651 Section 9. For the purpose of incorporating the amendment
652 made by this act to section 849.16, Florida Statutes, in a
653 reference thereto, subsection (1) of section 338.234, Florida
654 Statutes, is reenacted to read:
655 338.234 Granting concessions or selling along the turnpike
656 system; immunity from taxation.—
657 (1) The department may enter into contracts or licenses
658 with any person for the sale of services or products or business
659 opportunities on the turnpike system, or the turnpike enterprise
660 may sell services, products, or business opportunities on the
661 turnpike system, which benefit the traveling public or provide
662 additional revenue to the turnpike system. Services, business
663 opportunities, and products authorized to be sold include, but
664 are not limited to, motor fuel, vehicle towing, and vehicle
665 maintenance services; food with attendant nonalcoholic
666 beverages; lodging, meeting rooms, and other business services
667 opportunities; advertising and other promotional opportunities,

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

668 which advertising and promotions must be consistent with the
669 dignity and integrity of the state; state lottery tickets sold
670 by authorized retailers; games and amusements that operate by
671 the application of skill, not including games of chance as
672 defined in s. 849.16 or other illegal gambling games; Florida
673 citrus, goods promoting the state, or handmade goods produced
674 within the state; and travel information, tickets, reservations,
675 or other related services. However, the department, pursuant to
676 the grants of authority to the turnpike enterprise under this
677 section, shall not exercise the power of eminent domain solely
678 for the purpose of acquiring real property in order to provide
679 business services or opportunities, such as lodging and meeting-
680 room space on the turnpike system.
681 Section 10. For the purpose of incorporating the amendment
682 made by this act to section 895.02, Florida Statutes, in a
683 reference thereto, paragraph (g) of subsection (3) of section
684 655.50, Florida Statutes, is reenacted to read:
685 655.50 Florida Control of Money Laundering in Financial
686 Institutions Act; reports of transactions involving currency or
687 monetary instruments; when required; purpose; definitions;
688 penalties.—
689 (3) As used in this section, the term:
690 (g) "Specified unlawful activity" means any "racketeering
691 activity" as defined in s. 895.02.
692 Section 11. For the purpose of incorporating the amendment
693 made by this act to section 849.16, Florida Statutes, in a
694 reference thereto, section 849.19, Florida Statutes, is
695 reenacted to read:
696 849.19 Property rights in confiscated machine.—The right of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

697 property in and to any machine, apparatus or device as defined
698 in s. 849.16 and to all money and other things of value therein,
699 is declared not to exist in any person, and the same shall be
700 forfeited and such money or other things of value shall be
701 forfeited to the county in which the seizure was made and shall
702 be delivered forthwith to the clerk of the circuit court and
703 shall by her or him be placed in the fine and forfeiture fund of
704 said county.
705 Section 12. For the purpose of incorporating the amendment
706 made by this act to section 895.02, Florida Statutes, in a
707 reference thereto, paragraph (g) of subsection (2) of section
708 896.101, Florida Statutes, is reenacted to read:
709 896.101 Florida Money Laundering Act; definitions;
710 penalties; injunctions; seizure warrants; immunity.—
711 (2) As used in this section, the term:
712 (g) "Specified unlawful activity" means any "racketeering
713 activity" as defined in s. 895.02.
714 Section 13. For the purpose of incorporating the amendment
715 made by this act to section 895.02, Florida Statutes, in a
716 reference thereto, subsection (3) of section 905.34, Florida
717 Statutes, is reenacted to read:
718 905.34 Powers and duties; law applicable.—The jurisdiction
719 of a statewide grand jury impaneled under this chapter shall
720 extend throughout the state. The subject matter jurisdiction of
721 the statewide grand jury shall be limited to the offenses of:
722 (3) Any violation of the provisions of the Florida RICO
723 (Racketeer Influenced and Corrupt Organization) Act, including
724 any offense listed in the definition of racketeering activity in
725 s. 895.02(1)(a), providing such listed offense is investigated

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

726 in connection with a violation of s. 895.03 and is charged in a
727 separate count of an information or indictment containing a
728 count charging a violation of s. 895.03, the prosecution of
729 which listed offense may continue independently if the
730 prosecution of the violation of s. 895.03 is terminated for any
731 reason;
732
733 or any attempt, solicitation, or conspiracy to commit any
734 violation of the crimes specifically enumerated above, when any
735 such offense is occurring, or has occurred, in two or more
736 judicial circuits as part of a related transaction or when any
737 such offense is connected with an organized criminal conspiracy
738 affecting two or more judicial circuits. The statewide grand
739 jury may return indictments and presentments irrespective of the
740 county or judicial circuit where the offense is committed or
741 triable. If an indictment is returned, it shall be certified and
742 transferred for trial to the county where the offense was
743 committed. The powers and duties of, and law applicable to,
744 county grand juries shall apply to a statewide grand jury except
745 when such powers, duties, and law are inconsistent with the
746 provisions of ss. 905.31-905.40.
747 Section 14. This act shall take effect upon becoming a law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Gaming

Bill Number: 1030 (if applicable)

Name: Bob Riley

Amendment Barcode: (if applicable)

Job Title: District 6 Commander

Address: 1204 Addison Ave
Street

The Villages FL. 32162
City State Zip

Phone: 352-205-4783

E-mail: winbob65@embarqmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: American Legion

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Maquinitas

Bill Number: SB 1030 (if applicable)

Name: Ron Book

Amendment Barcode: (if applicable)

Job Title:

Address: 204 West Jefferson
Street

TLH 32301
City State Zip

Phone:

E-mail:

Speaking: [✓] For [ ] Against [ ] Information

Representing: Magic City Casino | Flagler Dog Track

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

Wants to Speak

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/2013
Meeting Date

Topic _____

Bill Number 1030 *(if applicable)*

Name BRIAN PITTS

Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: [✓] For [ ] Against [✓] Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Internet Cafes

Bill Number: 1030 (if applicable)

Name: Sara Johnson

Amendment Barcode: (if applicable)

Job Title: Legislative Assistant to the President

Address: 4853 S. Orange Ave
Street

Orlando, FL 32806
City, State, Zip

Phone: 850-567-8143

E-mail: savaj@flfamily.org

Speaking: [x] For [ ] Against [ ] Information

Representing: Florida Family Action

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

Wants to speak

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Sweepstakes Devices

Bill Number: 1030 (if applicable)

Name: Jim Gabbard

Amendment Barcode: (if applicable)

Job Title: Retired Chief of Police

Address: 1100 31st Ave.
Street

Vero Beach Fla
City State Zip

Phone: 772-473-7966

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: The Florida Police Chiefs Association

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Internet Sweepstakes

Bill Number: SB 1030 *(if applicable)*

Name: Adam Gigiery

Amendment Barcode: *(if applicable)*

Job Title: Policy Director

Address: 136 S Bronough St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone:

E-mail: agigiery@flchamber.com

Speaking: [X] For [ ] Against [ ] Information

Representing: FL Chamber of Commerce

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Amusement Arcades

Bill Number: SB 1030 (if applicable)

Name: Maria DiMinno

Amendment Barcode: (if applicable)

Job Title: Domestic Engineer

Address: 27 Del Sol
Street

PSL, Fl. 34952
City, State, Zip

Phone: 772-398-9093

E-mail: sweetmia122@hotmail.com

Speaking: [x] For [ ] Against [x] Information

Representing: Myself

Appearing at request of Chair: [ ] Yes [x] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: Gaming

Bill Number: 1030 (if applicable)

Name: Frank Mezzenzanta

Amendment Barcode: (if applicable)

Job Title:

Address: 2901 SE Bradford
Street

Tall
City State Zip

Phone: 576 5858

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing: Seminole Sheriffs Office

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-2013
Meeting Date

Topic: Arcade

Bill Number: 1030 *(if applicable)*

Name: MarKita Greenberg

Amendment Barcode: _____ *(if applicable)*

Job Title: Retired - Disabled

Address: 2650 SW Tropical Terr
Street

PSL, FL 34953
City, State, Zip

Phone: 772-343-7055

E-mail: _____

Speaking: [x] For [X] Against [ ] Information

Representing: _____

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [✓] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 2 2013
Meeting Date

Topic: ARCADES

Bill Number: 1030 *(if applicable)*

Name: GALE Fontaine

Amendment Barcode: *(if applicable)*

Job Title: President Fla Arcade & Bingo Association

Address: 2201 NE 44 ST
Street

LIGHT HOUSE PT FL 33064
City *State* *Zip*

Phone: 954 465 3400

E-mail: Gale.Fontaine@Yahoo.com

Speaking: ☐ For ☐ Against ☑ Information

Representing: FLORIDA Arcade & Bingo Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/02/13
Meeting Date

Topic: Arcades

Bill Number: SB 1030 (if applicable)

Name: Jenny Murejon

Amendment Barcode: (if applicable)

Job Title: Owner

Address: 6970 NW 166 Terr
Street

Miami Lakes, FL 33018
City, State, Zip

Phone: (305) 917-5952

E-mail:

Speaking: [X] For [ ] Against [X] Information

Representing: West Palace Bingo

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Arcade Law

Bill Number: 1030 *(if applicable)*

Name: Michael Wolff

Amendment Barcode: *(if applicable)*

Job Title: Attorney

Address: 110 SE 6 St.
Street

Ft Lauderdale, FLA 33301
City *State* *Zip*

Phone: 954-673-1146

E-mail: AEKolaw@AOL.com

Speaking: ☐ For ☐ Against ☑ Information

Representing: Florida Arcade Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/02/13
Meeting Date

Topic: ARCADES

Bill Number: SB1030 (if applicable)

Name: Ledia Herrera

Amendment Barcode: (if applicable)

Job Title: Retired

Address: 5495 West 14th Ct.
Street

Hialeah, Fl 33013
City State Zip

Phone: 786-485-0298

E-mail:

Speaking: ☐ For ☐ Against ☐ Information

Representing: SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/02/13
Meeting Date

Topic: Arcades

Bill Number: SB1030 (if applicable)

Name: Mike Cannon

Amendment Barcode: (if applicable)

Job Title: ARCADE OWNER

Address: 2433 SE ECSTON Port St Lucie
Street

PSL FL 34952
City State Zip

Phone:

E-mail:

Speaking: ☐ For ☐ Against ☒ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-Apr-2013
Meeting Date

Topic: ARCADES

Bill Number: 1030 *(if applicable)*

Name: Luke Murphy

Amendment Barcode: *(if applicable)*

Job Title: Staff Sergeant (medically Retired)

Address: 1816 Salmon
Street

Tallahassee FL 32303
City *State* *Zip*

Phone: 850-597-4441

E-mail:

Speaking: ☐ For ☐ Against ☑ Information

Representing:

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-2013
Meeting Date

Topic: Arcade

Bill Number: 1030 *(if applicable)*

Name: Mildred Callahan

Amendment Barcode: _____ *(if applicable)*

Job Title: Retired

Address: 2050 SW Tropical Terr
Street

PSL, FL 34953
City, State, Zip

Phone: 772-626-9905

E-mail: _____

Speaking: [ ] For [✓] Against [ ] Information

Representing: _____

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: Amusement Arcades

Bill Number: 1030 *(if applicable)*

Name: Robert James

Amendment Barcode: _____ *(if applicable)*

Job Title: Managing Partner, Venetian Arcade

Address: 911 NW Bayshore Blvd.
Street

Port St. Lucie, FL. 34983
City *State* *Zip*

Phone: (772) 204-1104

E-mail: rjames61@Live.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: Amusement Arcades

Bill Number: 1030 *(if applicable)*

Name: Allison Morando

Amendment Barcode: _____ *(if applicable)*

Job Title: Managing Partner at the Veretian Arcade

Address: 941 NW Baysbore Blvd.
Street

Port St. Lucie, FL, 34983
City *State* *Zip*

Phone: (772) 204-6242

E-mail: palmtreequeen8@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing: Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: Amusement Arcade

Bill Number: SB1030 (if applicable)

Name: Tina Gionis

Amendment Barcode: (if applicable)

Job Title:

Address: 727 NE Galilean st
Street

Port Saint Lucie FL 34983
City State Zip

Phone: 772-807-2027

E-mail: TinaLGionis@yahoo.com

Speaking: ☐ For ☑ Against ☑ Information

Representing:

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/3/13
Meeting Date

Topic: Amusement Arcade

Bill Number: 1030 *(if applicable)*

Name: Sara Gionis

Amendment Barcode: _____ *(if applicable)*

Job Title: _____

Address: 727 NE Galileon St
Street

City *State* *Zip*

Phone: 7728072027

E-mail: saragionis@yahoo.com

Speaking: ☐ For ☑ Against ☑ Information

Representing: _____

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: AMUSEMENT ARCADES

Bill Number: SB1030 (if applicable)

Name: DAVID BORTNICK

Amendment Barcode: (if applicable)

Job Title:

Address: 3103 SCARLET TANAGER COURT
Street

PORT ST LUCIE FL 34952
City State Zip

Phone: 772-878-5067

E-mail: BORTNICK23@GMAIL.COM

Speaking: [ ] For [X] Against [X] Information

Representing: MY SELF

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: Amusme ~~AA Pocus~~ Arcade

Bill Number: 1030 *(if applicable)*

Name: Donna M Pocus

Amendment Barcode: *(if applicable)*

Job Title: Retired for Domestic Engineering

Address: 550 Joanne Ln
Street

Port St Lucie FL
City *State* *Zip*

Phone: 772 9052939

E-mail: donnapocus@bellsouth.net

Speaking: [x] For [ ] Against [ ] Information

Representing: Myself

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [x] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/02/2013
Meeting Date

Topic: Amusment Arcade

Bill Number: 1030 *(if applicable)*

Name: Sandra Polanco

Amendment Barcode: _____ *(if applicable)*

Job Title: Cook

Address: 709 SW Hogan st.
Street

Port Saint Lucie Fl 34983
City *State* *Zip*

Phone: 772 971 4505

E-mail: Sandrucki41@MSN.com.

Speaking: [x] For [ ] Against [ ] Information

Representing: _____

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: AMUSEMENT ARCADE

Bill Number: 1030 *(if applicable)*

Name: Marlies Lehmann

Amendment Barcode: *(if applicable)*

Job Title:

Address: 5524 NWE TORINO PKWY #307
Street

Port St. Lucie, FL, 34986
City *State* *Zip*

Phone: 772-708-1356

E-mail:

Speaking: [X] For [ ] Against [ ] Information

Representing:

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/02/13
Meeting Date

Topic: Arcades

Bill Number: SB1030 (if applicable)

Name: Ailema Gomez

Amendment Barcode: (if applicable)

Job Title:

Address: 11463 NW 94 PL.
Street

Hialeah Gardens, FL 33018
City, State, Zip

Phone: (305) 609-9295

E-mail: SVTAile03@BellSouth.net

Speaking: ☐ For ☐ Against ☒ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/02/13
Meeting Date

Topic: Arcades

Bill Number: SB1030 (if applicable)

Name: Christian Navarro

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: 11463 NW 94 PL.
Street

Hialeah Gardens, FL 33018
City, State, Zip

Phone: (305) 609-4527

E-mail: SVTchris2004@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

April 2, 2013
Meeting Date

Topic: Arcade

Bill Number: 1030 *(if applicable)*

Name: PATRICIA NORTON

Amendment Barcode: _____ *(if applicable)*

Job Title: Retired (Age 72)

Address: 2386 S.E. PATIO CIRCLE
Street

PORT SAINT LUCIE, FL 34952
City *State* *Zip*

Phone: (772) 335-9852

E-mail: _____

Speaking: ☐ For ☐ Against ☑ Information

Representing: Yourself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Amusement Arcade

Bill Number: 1030 *(if applicable)*

Name: MARTHA WISNIEWSKI

Amendment Barcode: _____ *(if applicable)*

Job Title: Retired Nurse of 35 years - would love to speak

Address: 7857 Meadowlark LN
Street

Port St Lucie FL 34952
City *State* *Zip*

Phone: _____

E-mail: None

Speaking: ☐ For ☐ Against ☑ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic _____

Bill Number 1030 *(if applicable)*

Name JOAN SABATINO

Amendment Barcode _____ *(if applicable)*

Job Title RETIRED

Address 578 SW Ester Ave
Street

PSL FL
City *State* *Zip*

Phone 772 342 2876

E-mail _____

Speaking: [X] For [ ] Against [ ] Information

Representing Joan Sabatino

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: Amusement Arcade

Bill Number: 1030 *(if applicable)*

Name: Melody Lee Hall

Amendment Barcode: _____ *(if applicable)*

Job Title: Retired / Disabled

Address: 4 Bernardo Lane
Street

Port St Lucie FL 34952
City *State* *Zip*

Phone: 772-201-2479

E-mail: melodyphilly@gmail.com

Speaking: [X] For [ ] Against [ ] Information

Representing: _____

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Arcades

Bill Number: 1030 *(if applicable)*

Name: TOM ROYER

Amendment Barcode: _____ *(if applicable)*

Job Title: RETIRED

Address: 4 HIDALGO LN
Street

PORT ST. LUCIE FL 34953
City *State* *Zip*

Phone: 786-419 0456

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/0

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Amusement Arcade

Bill Number: 1030 (if applicable)

Name: Lynda Hugill

Amendment Barcode: _____ (if applicable)

Job Title: retired - Hud Housing

Address: 519 Ponderosa Dr.
Street

Fort Pierce FL 34982
City State Zip

Phone: 772-466-3865

E-mail: _____

Speaking: ☐ For ☐ Against ☑ Information

Representing: self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Amusement Arcades

Bill Number: SB 1030 (if applicable)

Name: Doreen Smeriglio

Amendment Barcode: (if applicable)

Job Title: Arcade Attendant

Address: 180 NE Jardain Rd
Street

Port St Lucie, Fla 34983
City, State, Zip

Phone: 772-204-1255

E-mail: doreen-smeriglio@yahoo.com

Speaking: ☐ For ☑ Against ☑ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Amusement Arcades

Bill Number: 1030 *(if applicable)*

Name: EVE GREENE

Amendment Barcode: *(if applicable)*

Job Title: Elderly Retired

Address: 3724 Sherwood Blvd
Street

Delray Beach FL 33445
City *State* *Zip*

Phone: 561-607-1626

E-mail: evegreene@comcast.net

Speaking: ☐ For ☐ Against ☑ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Arcades

Bill Number: 1030 (if applicable)

Name: Anita Silverman

Amendment Barcode: (if applicable)

Job Title: Retired

Address: 6098 La Salle Rd.
Street

Delray Bch FL 33484
City State Zip

Phone: (561) 498-9208

E-mail: ansilverm@aol.com

Speaking: ☐ For ☒ Against ☒ Information

Representing: Self

Appearing at request of Chair: ☒ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: Arcades

Bill Number: 1030 *(if applicable)*

Name: Tobie Berg

Amendment Barcode: _____ *(if applicable)*

Job Title: Retired

Address: 89 Waterford "D"
Street

DeLray Bch FL. 33446
City *State* *Zip*

Phone: (561) 496-3114

E-mail: _____

Speaking: [ ] For [X] Against [X] Information

Representing: Self

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

APRIL 2, 2013
Meeting Date

Topic: ARCADES

Bill Number: 1030 *(if applicable)*

Name: IRMA DeGROAT

Amendment Barcode: _____ *(if applicable)*

Job Title: RETIRED

Address: 5340 LAS VERDES CIRCLE
Street

DELRAY BEACH, FL. 33484
City *State* *Zip*

Phone: 910 650 2616

E-mail: _____

Speaking: ☐ For ☐ Against ☒ Information

Representing: SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

4/2/13 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic ~~Herbert August~~ ARCADE

Bill Number 1030 (if applicable)

Name Herbert August

Amendment Barcode _____ (if applicable)

Job Title Retired

Address 358 Normandy Lt
Street

Delray Beach FL 33484
City State Zip

Phone 561 495 1556

E-mail Herby1117@aol.com

Speaking: ☐ For ☐ Against ☒ Information

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

4/02/13 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic: ARCADE

Bill Number: 1030 *(if applicable)*

Name: LINDA AUGUST

Amendment Barcode: *(if applicable)*

Job Title: RETIRED

Address: 358 NORMANDY H
Street

Delray Beach FL 33484
City *State* *Zip*

Phone: 561 495 1556

E-mail: LINDA EVE 524 @ aol.com

Speaking: [X] For [ ] Against [X] Information

Representing: self

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Arcade

Bill Number: 1030 (if applicable)

Name: Ann Ferrante

Amendment Barcode: (if applicable)

Job Title: Retired

Address: 7146 Huntington Ln #104
Street

Delray Beach, FL 33446
City, State, Zip

Phone: 561-330-4423

E-mail: AFerrante7@comcast.net

Speaking: ☐ For ☐ Against ☑ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Amusement Arcade

Bill Number: SB 1030 (if applicable)

Name: Nicole Smeriglio

Amendment Barcode: (if applicable)

Job Title: Amusement Arcade Attendant

Address: 2212 se Walton Lakes dr.
Street

PSL FL 34952
City State Zip

Phone: (772) 626-9018

E-mail: nsmeriglio18@gmail.com

Speaking: ☐ For ☐ Against ☑ Information

Representing:

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/2/13
Meeting Date

Topic: Arcades

Bill Number: 1030 *(if applicable)*

Name: Leonard Kahn

Amendment Barcode: _____ *(if applicable)*

Job Title: Retired

Address: 404 Merion Hill Lane
Street

3700 Ocean Blvd - Highland
City *State* *Zip*

Phone: 215-518-4372

E-mail: lsk404@aol.com

Speaking: ☐ For ☐ Against ☒ Information

Representing: Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/02/13
Meeting Date

Topic: Arcades

Bill Number: SB1030 (if applicable)

Name: Guillermo D. Conte

Amendment Barcode: (if applicable)

Job Title:

Address: 7330 W 15 AV. Hialeah.
Street

Hialeah. FL 33018
City State Zip

Phone: 786 985 3744

E-mail:

Speaking: ☐ For ☐ Against ☐ Information

Representing:

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/02/13
Meeting Date

Topic: Arcades

Bill Number: SB 1030 (if applicable)

Name: Antonia Ponce

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: 430 E 26 ST
Street

HIALEAH, FL 33013
City, State, Zip

Phone: 305 325 3511

E-mail: _____

Speaking: ☐ For ☒ Against ☐ Information

Representing: _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-2-13
Meeting Date

Topic: Amusement Arcades

Bill Number: 1030 (if applicable)

Name: Richard Pinsky

Amendment Barcode: (if applicable)

Job Title:

Address: 101 E. College Ave.
Street

Tally, FL 32301
City, State, Zip

Phone:

E-mail:

Speaking: [ ] For [ ] Against [✓] Information

Representing:

Appearing at request of Chair: [ ] Yes [✓] No

Lobbyist registered with Legislature: [✓] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/02/13
Meeting Date

Topic: Arcades

Bill Number: SB1030 (if applicable)

Name: Mercedes Cardoso

Amendment Barcode: _____ (if applicable)

Job Title: _____

Address: 10000 N.W 68 ST
Street

HIALEAH, FL 33016
City, State, Zip

Phone: 786-752-0393

E-mail: _____

Speaking: ☐ For ☐ Against ☐ Information

Representing: _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

CourtSmart Tag Report

Room: EL 110 **Case:** **Type:**
Caption: Senate Rules Committee **Judge:**

Started: 4/2/2013 8:01:19 AM
Ends: 4/2/2013 10:59:30 AM **Length: 02:58:12**

8:01:21 AM	Senator Thrasher calls the meeting to order
8:01:42 AM	roll call
8:01:45 AM	quorum present
8:02:13 AM	Senator Thrasher speaks
8:02:30 AM	Senator Smith takes the chair
8:03:21 AM	CS/SB 1030 by Senator Thrasher
8:03:32 AM	Senator Thrasher explains the bill
8:10:25 AM	Senator Latvala ask a question
8:10:57 AM	Senator Smith has Mr. Levesque answer questions
8:12:03 AM	Senator Latvala ask question to Mr. Levesque
8:12:45 AM	Mr. Levesque speaks
8:14:01 AM	Senator Latvala ask Mr. Levesque a question
8:14:14 AM	Mr. Levesque answers
8:15:24 AM	Senator Latvala ask a question of Mr. Levesque
8:15:35 AM	Mr. Levesque answers
8:15:38 AM	Senator Latvala ask Mr. Levesque a question
8:15:48 AM	Mr. Levesque answers
8:17:02 AM	Senator Ring asks a question of Mr. Levesque
8:17:35 AM	Senator Thrasher answers the question of Senator Ring
8:18:22 AM	Senator Smith ask a question of Mr. Levesque
8:18:33 AM	Mr. Levesque answers
8:19:10 AM	Senator Smith ask a question of Mr. Levesque
8:19:22 AM	Mr. Levesque answers
8:19:47 AM	Senator Sobel ask a question of Mr. Levesque
8:20:02 AM	Mr. Levesque answers
8:20:14 AM	Senator Montford ask a question
8:20:27 AM	Senator Thrasher answers
8:20:34 AM	Senator Montford ask a question
8:20:39 AM	Senator Thrasher answers
8:20:45 AM	Senator Lee ask a question
8:23:08 AM	Mr. Levesque answers
8:23:51 AM	Senator Thrasher answers
8:24:59 AM	Senator Richter speaks
8:27:49 AM	Senator Diaz de la Portilla ask a question
8:28:19 AM	Mr. Levesque answers
8:29:17 AM	Senator Diza de la ortilla with a followup
8:29:29 AM	Mr. Levesque answers
8:29:56 AM	Senator Diza de la Portilla with a followup
8:30:08 AM	Mr. Levesque answers
8:30:51 AM	Senator Diza de la Portilla with a question
8:31:02 AM	Mr. Levesque answers
8:31:40 AM	Public testimony
8:32:08 AM	Gale Fontaine, President Fl Arcade & Bingo speaks
8:36:53 AM	Jenny Moregon speaks, Arcade Owner
8:37:23 AM	Michael Wolf, Attorney
8:44:18 AM	Sentor Galvano ask Mr. Wolf a question
8:44:27 AM	Mr. Wolf answers
8:45:27 AM	Senator Galvano ask a follow up
8:45:40 AM	Mr. Wolf answers
8:46:05 AM	Senator Galvano with a follow up
8:46:15 AM	Mr. Wolf answers
8:46:31 AM	Sentor Ring with a question for Mr. Wolfe

8:46:39 AM	Mr. Wolf answers
8:48:22 AM	Senator Ring with a follow up
8:48:42 AM	Mr. Wolf answers
8:49:25 AM	Senator Ring with a follow up
8:49:32 AM	Mr Wolf answers question
8:51:20 AM	Ledia Herrerq, retired speaks
8:52:40 AM	Mike Cannon Arcade owner speaks
8:54:58 AM	Luke Murphy , Staff Sergeant speaks
8:56:46 AM	Mildred Callahan waives in opposition
8:56:53 AM	Robert James Venetian Arcade speaks
8:58:16 AM	Allison Morando waives in opposition
8:58:26 AM	Tina Gionis waives in opposition
8:58:27 AM	Sarah Gionis waives in opposition
8:58:33 AM	David Bortnick waives in opposition
8:58:44 AM	Donna Pocus speaks
8:59:45 AM	Sandra Polanco waives in opposition
8:59:51 AM	Marlies Lehmann waives in opposition
8:59:58 AM	Ailna Gomez waives in opposition
9:00:27 AM	Christian Navarro speaks
9:00:29 AM	individuals waive in opposition
9:01:17 AM	Martha Wisniewwski speaks
9:02:39 AM	individuals waive in opposition
9:05:14 AM	Anita Silverman speaks
9:07:18 AM	Individuals waive in opposition
9:08:03 AM	Nicole Smeriglio speaks
9:09:02 AM	Individuals waive in opposition
9:09:05 AM	Markita Greenberg speaks
9:12:31 AM	Frank Messersmith Seminole Sheriff office speaks
9:13:14 AM	Senator Simmons ask a question
9:13:43 AM	Mr. Messersmith answers
9:14:21 AM	Senator Simmons with a followup
9:14:29 AM	Mr. Messersmith answers
9:14:56 AM	individuals waive in opposition
9:15:56 AM	Maria Dinminno speaks
9:17:22 AM	Brian Pitts speaks
9:19:55 AM	Bob Kiley, Villages speaks
9:26:14 AM	Ron Books speaks
9:29:57 AM	Senator Simmons ask a question of Mr. Book
9:30:12 AM	Mr. Book answers
9:30:58 AM	Senator Simmons with a followup
9:31:13 AM	Mr. Book answers
9:33:13 AM	Back on the bill
9:33:28 AM	Senator Richter debates the bill
9:34:27 AM	Senator Simmons debates the bill
9:36:10 AM	Senator Sobel debates the bill
9:38:06 AM	Senator Galvano debates the bill
9:40:16 AM	Senator Ring debates the bill
9:43:55 AM	Senator Smith speaks
9:44:23 AM	Senator Thrahser closes on the bill
9:50:19 AM	roll call on CS/SB 1030
9:51:21 AM	CS/SB 1030 reported favorable
9:51:58 AM	Senator Thrasher takes the chair
9:52:05 AM	CS/SB 306 by Senator Braynon
9:54:12 AM	Senator Braynon speaks on the bill
9:56:49 AM	Amendment 140726 by Senator Margolis
9:57:06 AM	Senator Margolis explains the amendment
9:57:46 AM	Without ojection Amendment withdrawn
9:57:55 AM	Amendment 640428 late filed by Senator Ring
9:58:11 AM	Senator Ring explains the amendment
9:58:24 AM	Without objection Amendment withdrawn
9:58:30 AM	Amendment 749442 by Senator Sobel
9:58:47 AM	Without objection Amendment withdrawn

9:58:50 AM	Amendment 130470 by Senator Sobel
9:59:00 AM	Senator Sobel explains the amendment
9:59:12 AM	Without objection Amendment withdrawn
9:59:18 AM	Amendment 123940 by Senator Gardiner, Thrasher and Lee
9:59:39 AM	Senator Gardiner explains the amendment
10:03:24 AM	Amendment to Amedment 469876 by Sobel
10:03:54 AM	Senator Sobel explains the amendment to amendment
10:04:06 AM	Amendment withdrawn
10:04:10 AM	Back on the main amendment
10:04:19 AM	Senator Latvala ask a question
10:04:53 AM	Senator Gardiner answers the question
10:05:41 AM	Senator Latvala with a followup
10:05:49 AM	Senator Gardiner answers
10:06:43 AM	Senator Latvala with a followup
10:06:50 AM	Senator Gardiner answers
10:07:49 AM	Senator Margolis with a question
10:09:22 AM	Senator Gardiner answers
10:10:01 AM	Senator Sobel ask a question
10:10:10 AM	Senator Gardiner answers
10:10:35 AM	Senator Sobel with a followup
10:10:41 AM	Senator Gardiner answers
10:11:31 AM	Public testimony
10:11:40 AM	Jess McCarty waives
10:11:47 AM	Mayor Gilbert waives in support
10:11:58 AM	Brian Pitts, Justice for Jesus speaks
10:14:37 AM	Daniel Tapia International Banking speaks
10:15:09 AM	Shira Kastan waives in support
10:15:16 AM	Ron Book speaks
10:17:05 AM	Mike Dee CEO Miami Dolphins speaks
10:17:28 AM	Back on the amendment
10:18:06 AM	Senator Lee speaks
10:18:58 AM	Senator Sobel speaks
10:19:38 AM	Senator Gardiner closes
10:20:15 AM	Amendment adopted
10:20:21 AM	Back on the bill
10:20:26 AM	Senator Braynon waives closee
10:20:35 AM	roll call on bill
10:20:41 AM	CS/SB 306 reported favorably
10:21:26 AM	SB 1792 by Senator Lee
10:21:32 AM	Senator Lee explains the bill
10:24:04 AM	A 456098 by Senator Smith
10:24:13 AM	Senator Smith explains the amendment
10:25:12 AM	Senator Diaz de la Portilla ask a question
10:25:19 AM	Senator Smith answers
10:26:16 AM	Senator Diaz de la Portilla with a followup
10:26:23 AM	Senator Smith answers
10:26:49 AM	Senator Montford ask a question
10:27:12 AM	Senator Smith answers
10:28:28 AM	Public testimony
10:28:30 AM	Tom Dukes Speaks on the amendment
10:30:17 AM	Senator Simmons ask a question
10:30:32 AM	Mr. Dukes answers
10:32:21 AM	Senator Simmons with a followup
10:32:29 AM	Mr. Dukes answers
10:32:58 AM	Ken Sobel speaks on the amendment
10:35:14 AM	Senator Simmons debates the amendment
10:38:35 AM	Senator Smith closes on amendment
10:39:50 AM	Amendment not adopted
10:39:56 AM	roll call on amendment
10:40:04 AM	amendment not adopted
10:40:39 AM	back on the bill
10:40:46 AM	Public testimony

10:40:57 AM	Individuals waive in support
10:41:11 AM	Allison Anderson speaks
10:45:13 AM	Bill Bell
10:45:16 AM	Jeff Scott
10:45:20 AM	Brian Pitt, Justice for Jesues speaks
10:46:43 AM	Leslie Kroeger speaks
10:49:28 AM	Individuals
10:49:32 AM	waive
10:51:42 AM	motion to vote time certain at 10:55
10:51:57 AM	without objection
10:52:01 AM	Ron Watson waives
10:52:05 AM	Individuals waive
10:52:15 AM	Sen Negron debates on bill
10:53:15 AM	Senator Lee closes
10:54:37 AM	roll call on SB 1792
10:54:50 AM	SB 1792 reported favorably
10:55:26 AM	Senator Hays explains CS/SB 1106
10:55:55 AM	Amendment 624918 explained
10:56:03 AM	973988 Amendment to amendment adopted
10:56:10 AM	amendment adopted
10:56:13 AM	Sen Hays close
10:56:17 AM	roll call on CS/SB 1106
10:56:43 AM	CS/SB 1106 reported favorably
10:56:57 AM	CS/CS SB 112 by Senator Dean
10:57:11 AM	Senator Dean explains bill
10:57:35 AM	764996 Amendment adopted
10:57:51 AM	CS recommended
10:57:57 AM	roll call on CS/CS 112
10:58:08 AM	CS/CS SB 112 reported favorably
10:58:31 AM	CS 186 by Diaz de la Portilla
10:58:39 AM	Senator Diaz de la Portilla explains bills
10:58:45 AM	Diaz de la Portilla waives close
10:58:49 AM	roll call on CS/SB 186
10:58:59 AM	SB 186 reported favorably
10:59:15 AM	Senator Gardiner moves we rise